



DG Undeb Sy'n Newid UK's Changing Union

Evidence to the Commission on Devolution in Wales

Research Papers

A Stable, Sustainable Settlement for Wales

Edited by

John Osmond and Stevie Upton

UK Changing Union partnership

—Wales Governance Centre, Cardiff University

—Institute of Welsh Affairs

—Cymru Yfory/Tomorrow's Wales

March 2013

The UK Changing Union Partnership

The UK's Changing Union project is a joint initiative between the Wales Governance Centre at Cardiff University, the Institute of Welsh Affairs, and Cymru Yfory/Tomorrow's Wales. The project seeks to explore and debate the future of the Union and the Welsh devolution settlement through research and engagement with relevant public and civil society stakeholders.

It also seeks to involve young people and wider civil society in constitutional debate, disseminating the project's research findings in an accessible format and holding events in which organisations and individuals can understand what constitutional change might mean for them.

The project began work in January 2012 and will run for three years. It is funded by the Joseph Rowntree Charitable Trust and the Nuffield Foundation. Additional resources to the project are provided by the partner organisations.

The project has responded to the remit of the Silk Commission by forming three working groups on:

- Legal jurisdiction
- Finance and funding
- Scrutiny, capacity, accountability and powers

In parallel with this work the project has also convened a **Forum on the Changing Union**. This meets biannually to bring together experts in their fields drawn from the four countries of the UK. It is central to the project as a whole and contributes to the new thinking required to imagine the future shape of constitutional relationships within the British Isles. Each Forum has a different focus. Participants include academics, politicians, civil servants and other practitioners. The Forum produces discussion papers and reports on proceedings.

Contents

Introduction

Cynog Dafis

1. **The Capacity of the National Assembly**
Michael Cole, Laura Mcallister, And Diana Stirbu
2. **Policy-Making Capacity of Political Parties in Wales**
Anwen Elias
3. **The Capacity of the Civil Service in Wales**
Anna Nicholl
4. **Energy Policy and Powers**
Stevie Upton
5. **The Powers Wales Needs To Develop
An Integrated Transport Policy**
Stuart Cole
6. **Policing Powers**
Colin Rogers and James Gravelle
7. **Wales and the Welfare Agenda**
Victoria Winckler
8. **The European Influence in Wales**
Francesca Dickson
9. **Devolution and the Media**
IWA Media Policy Group
10. **The Scrutiny Capacity of Civil Society in Wales**
Rebecca Rumbul

Notes on the contributors



Introduction

Cynog Dafis

The research papers in this collection were commissioned by Working Group 3 of the UK Changing Union Project, charged with considering the powers, capacity and accountability of the National Assembly. We are very grateful to the authors for their work, which has made a key contribution to the task of preparing evidence to the Commission on Devolution in Wales (the Silk Commission). Part of their brief was to consult with experts and interested parties in considering the issues and making recommendations.

The specific issues considered here need to be seen in the context of the decision by the UK Changing Union Steering Group to recommend the adoption of the 'reserved powers model' for defining the National Assembly's powers. This, too, is the recommendation that underpins the evidence of the Welsh Government to the Commission.

We decided to commission papers within the broad themes of powers and capacity on the following subjects:

Powers:

Energy, Transport, Policing, Broadcasting, Welfare, and Europe.

Capacity:

National Assembly, the Civil Service, the Political Parties, and Civil Society.

One way and another the papers under the first heading make the case for devolving significant new responsibilities, either fields or matters within fields, to the Welsh level. The advantages of having powers sufficiently broad so as to enable the integration and coordination of policy and thus achieve the greatest practical effect are self-evident. The list of examples considered here is far from exhaustive but, with the exception of Social Security, they have all been subject to active debate on further devolution.

However, powers are evidently only part of the story. One theme that has clearly emerged in our discussions is that the capacities of the National Assembly and Welsh Government must be considered simultaneously. They are crucial for scrutiny, accountability and the legislative process, and thus for effective governance. In our view this is not just a matter of powers and capacity being mutually interdependent. It is also about setting in train a dynamic process in which the two aspects reinforce and stimulate each other.

It is reasonable to argue, for example, that the granting of broader, more clearly-defined, powers to the Assembly is likely to encourage greater public participation. It will also engage and stimulate the growth of the civil society organisations that can play a vital role in devising, implementing and scrutinising policy. Being in possession of such powers makes it more likely that the brightest and best will be attracted into the Welsh civil service. In turn, such development of capacity will generate confidence in the ability to make good use of powers and indeed to acquire more. In such a context a more vibrant Welsh media is also more likely to spring up.

This was the reasoning behind the decision to commission the papers under the second heading. Following receipt of the papers there were two further stages:

1. Each one was scrutinised in round-table discussions attended by experts.
2. We considered the outcome of this process and came to an agreed position, bearing in mind the decision of the UK Changing Union steering group to recommend the adoption of the reserved powers model, of which our group approved wholeheartedly.

The outcome of this process is to be found in the section on Powers and Capacity in the evidence of the UK Changing Union Project to the Silk Commission. The Project has now decided to commission two further research papers on capacity issues:

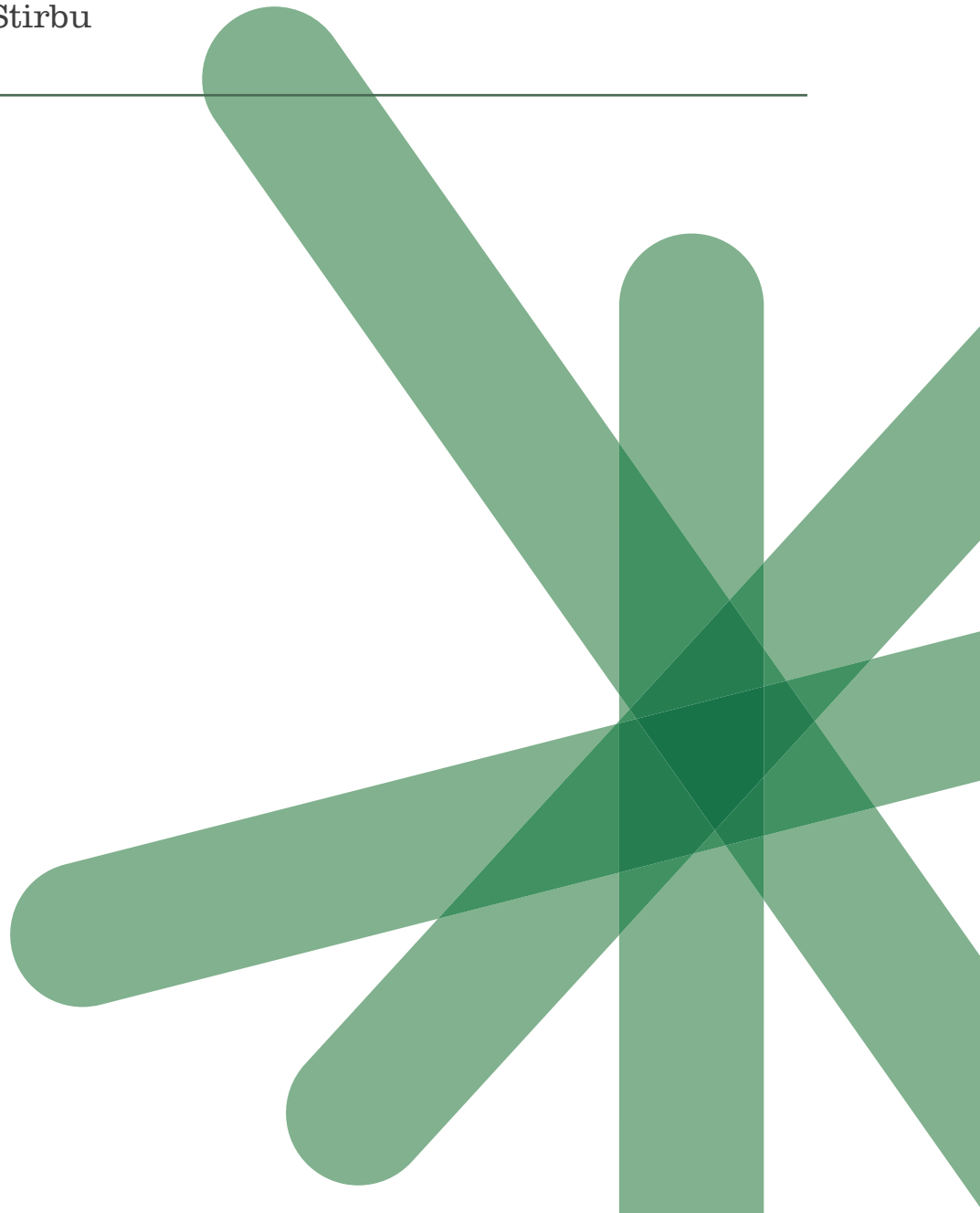
1. A paper on the size of the National Assembly, in collaboration with the Electoral Reform Society.
2. A paper on the implications for the Welsh civil service of additional functions of the kind considered above, as well as the adoption of the reserved powers model and the establishment of a separate Welsh legal jurisdiction.

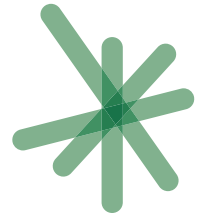
We intend to present further evidence based on this work to the Silk Commission in due course.

Chapter 1

The Capacity of the National Assembly

Michael Cole, Laura McAllister,
and Diana Stirbu





The Capacity of the National Assembly

Michael Cole, Laura McAllister, and Diana Stirbu

Introduction

This paper collates findings from our on-going research around the capacity of the National Assembly (see, for example, McAllister and Stirbu, 2007; McAllister and Stirbu, 2008). In particular, we deploy findings from a series of interviews with politicians, Assembly officials and representatives from civil society. We contextualise our findings through a range of relevant academic literature and also use lessons from existing good practice in other institutions. The paper focuses on several long-standing issues in relation to the Assembly's operating and strategic capacity. It also considers changes during the fourth Assembly. There are four key strands to our analysis:

- Support for scrutiny
- Institutional scrutiny mechanisms
- Assembly size
- Wider engagement with the electorate

In relation to the first two strands, primary attention is paid to the operation of the Assembly's committees since they are normally where most effective scrutiny in democratic legislatures occurs, although scrutiny undertaken through Assembly plenary sessions is also addressed. In the final section, we make some specific recommendations to improve the capacity of the Assembly. It is also worth noting that some inherent capacity issues are more easily addressed than others. We attempt to create some hierarchy of changes that might be implemented in the short and medium term that do not depend on increasing the number of elected politicians.

Our choice of themes draws on a range of scholarly literature. The emphasis on support for scrutiny reflects the significance of this theme in relation to the effectiveness of the committees (Newton, 2001; McKay and Johnson, 2010). This section also encompasses distinctive issues about ministerial scrutiny through the committees, again a reflection of issues raised through wider scholarship (Rogers and Walters, 2004; Norton, 2005). In addition, this aspect reflects findings about wider support for scrutiny through scholarship on the training of elected politicians (Steinack, 2012).

Similarly, our analysis of institutional scrutiny mechanisms also uses themes identified as relevant to overall effectiveness. In particular, we draw on scholarship about the impact of the scale and comprehensive coverage of committee systems in the UK (Newton, 2001); and also beyond, for example in relation to India (Bal Shekar, 2003), Japan (Kesavan, 2003), and the Netherlands (Hazan, 2001). In addition, our analysis reflects extensive scholarship about appointments to such committees,

for example concerning Italy (Hazan, 2001), and Japan (Fukui, 2003). Our structure also relates to scholarship about workloads of politicians (Searing, 1994) and scrutiny in plenary sessions using, in particular, analysis of parliamentary-assembly questions (Franklin and Norton, 1993).

The matter of size reflects a topic that has been an occasional concern of the wider scholarly literature (Stone, 1998) but which has been a recurrent issue in relation to the operation of devolution in Wales (Richard, 2004). In some contrast, our focus on wider engagement with the electorate draws on a substantive literature that incorporates theoretical discussions (Bloomfield et. al., 2001) and analysis of activities undertaken by specific parliaments and assemblies (Lusoli et. al., 2006; Hansard Society, 2010; Leston-Bandeira, 2011).

Support for scrutiny

Support for scrutiny is considered in relation to internal back-up through Assembly structures, external assistance through hired research support and the use of witnesses as well as input and co-operation from Ministers.

1. Internal support

In relation to committee scrutiny, although the quality of the clerking and research back-up was widely acknowledged to be high by the AMs, the scale of this support was relatively modest. For example, in the fourth Assembly most committees were assigned two dedicated clerks and could draw on expertise from several small teams based in the research office and the resources of the library.

Training for AMs has traditionally been primarily through an induction programme which was rather rudimentary and had a tick-box feel. This weakness reflected resistance from AMs to the idea that they needed to be trained. The seeming lack of enthusiasm for both the initial training of new members and continuing professional development in Wales was not unusual and reflected more general research on attitudes and behaviours of UK politicians (Fox and Korris, 2012), some aspects of which were more accentuated at Westminster than in Cardiff, Belfast or Edinburgh.

There are, however, clear signs that this culture is changing. In particular, the new intake of AMs is more receptive to the notions of training and professional development and there is now a more proactive approach from the Parliamentary Service following the report of the Independent Review Panel (National Assembly, 2009).

2. External support

The politico-administrative culture at the Assembly generated capacity constraints because many AMs were reluctant to utilise external expert advisors to assist committee scrutiny. However, external support was often hired to assist with budgetary scrutiny and some of the more technical inquiries. For example, in the third Assembly, the Sustainability Committee hired external advisors concerning carbon reduction, the marine bill and planning (Sustainability Committee 2011, 7).

Our findings suggest significant limitations on the capacity of civil society organisations to support scrutiny at the Assembly. This has been shown concerning certain high-profile organisations. For example, the extensive committee structure of the third Assembly

placed substantial pressures on the Welsh Local Government Association, which between September 2008 and July 2010 sent employees to Assembly committees as witnesses on 31 occasions. As one of those involved told us: “In many instances the topic of the inquiry was outside what we would do in our day-to-day work”. He added that the burden of supplying evidence for Assembly inquiries “amounted to two or three full-time posts”.

These pressures occasionally led the WLGA to decline to participate in inquiries, for example a WLGA interviewee recalled that requests to assist an inquiry about domestic abuse were rejected because the topic was “outside the standard remit of our work”.

In contrast, representatives from other agencies felt excluded from the committee process. For example, one representative of a major non-governmental organisation in Wales admitted that contact with the Assembly in the last two years had been limited and the only invite to appear in front of committees for evidence came via the Wales Council for Voluntary Action rather than directly from the Assembly.¹ The same representative felt that the organisation’s expertise and views might have been asked for on several other occasions, given the relevance of the inquiries for the organisation. These findings suggest, therefore, weaknesses in committee engagement, a tendency to overload a few prominent organisations, and a failure to engage effectively with some other third sector agencies.

3. Ministerial scrutiny

In relation to ministerial witnesses, requests to attend were typically met with acceptance and clashes with ministers over attendance were rare. One exception related to the Deputy First Minister in the third Assembly, who cited other commitments in an attempt to avoid attending a Finance Committee session on transport.

In general, however, ministerial appearances were a regular feature of committee sessions. In 2009-10 there was a combined total of 123 appearances by cabinet Ministers before the Finance Committee and the five scrutiny committees. This level of appearances reflected, in part, a cultural legacy from the initial corporate status of the Assembly when Ministers were members of the committees (McAllister and Stirbu, 2007). Furthermore, this evidence also implied a continuing culture of ministerial co-operation and thus support for the scrutiny process through acceptance of substantial and recurrent accountability to the AMs. Overall, this data also suggests ministerial acquiescence in Wales to a much greater degree of committee scrutiny than experienced by Ministers in Scotland, Northern Ireland or at Westminster (Cole and McAllister, 2011).

Scrutiny: institutional mechanisms

1. Committee scrutiny – scale in the third Assembly

Overall, the institutional infrastructure of the third Assembly generated a substantial range of committee activity, which would appear to have equated to outputs at the House of Commons. For example, our analysis of the Finance Committee and the five scrutiny committees from May 2008 to April 2009 showed that they published reports in relation to 41 inquiries. Similarly, at the Commons six select committees covering similar responsibilities published 46 comparable reports from November 2008 to November 2009.

However, the overall scale of the committee matrix in Wales, the substantive agendas,

the small number of AMs (see below) and logistical constraints, such as the availability of suitable rooms, caused significant difficulties. For example, with only one meeting per fortnight - which was an inadequate timeframe within which to address its agenda - the Finance Committee initially struggled with its schedule. As a result it had to circumvent a range of difficulties such as timetabling clashes with other committees and the availability of rooms with public access, before securing additional slots.

In addition, time pressures meant that in the third Assembly it was difficult to take committee members out of Cardiff because they would miss too many other meetings, and cause problems in finding substitutes for other committee sessions. This limitation diminished capacity to raise public awareness of the Assembly through holding public sessions across Wales, an approach that has been recognised as successful in Scotland (Davidson and Stark, 2011).

2. Committee scrutiny - workload

The small size of the Assembly (see below) and the substantial committee structure during the first three Assemblies meant that committee workload strained both the opposition parties and the government parties.² For example, in the third assembly, 13 opposition and backbench AMs served on four or more committees. These capacity issues were particularly acute in relation to backbench Labour and Liberal Democrat AMs, who sat on an average of 3.1 and four committees respectively.³

Such capacity difficulties, combined with the fact that one committee (Health, Wellbeing and Local Government) had responsibility for scrutinising areas that represented half the government's budget, led to substantial changes to the committee configuration at the start of the fourth Assembly. The most important was a substantial reduction in the number of committees and the abolition of the distinction between legislative and non-legislative scrutiny, specifically through the abolition of the legislation committees. This change had potential benefits in relation to the development of expertise because the same AMs would undertake both legislative and non-legislative scrutiny across specific policy-areas.

3. Committee scrutiny – scale in the fourth Assembly

However, reforms to the committee structure at the start of the fourth Assembly risked the ultimate marginalisation of non-legislative scrutiny as legislation increases. This is a trend that might match developments in the Scottish Parliament, where the two types of scrutiny are undertaken by the same committees. As one AM who opposed these reforms commented:

“There is the danger that committees will get bogged down in legislation and will not deal with the scrutiny of Welsh Government Ministers’.

Early evidence for such an outcome can be identified in relation to the Communities, Equality and Local Government Committee, where, from January 2012 to the end of March 2012, debate was dominated by legislative scrutiny, principally deliberations on the Local Government By-Laws (Wales) Bill and the Official Languages Bill. Overall, as another AM noted:

“There is so little legislation at present that the committees have not had to make compromises... as the legislation increases I suspect that the committees will feel the strain”.

Such concerns have been recognised at the Assembly, which will soon review the operation

of the committee system.

4. Committee scrutiny - appointments

The appointment of committee members and chairs broadly reflected a traditional political patronage process controlled through the leadership and bargaining amongst the party machines, in which the input of most AMs was restricted substantially to expressions of personal preferences. However, the small number of AMs, and thus prospective appointees, meant that the whips had limited room for manoeuvre with specific appointments and thus a restricted capacity to discipline AMs through threats of non-appointment to, or dismissal from, favoured committee positions. Often the difficulty was to persuade or cajole busy members onto committees, not issue threats about removing patronage. Furthermore, in the fourth Assembly the Labour Group elected committee chairs, three AMs being chosen and then allocated to specific committees.

5. Scrutiny in plenary

Overall, scrutiny in plenary sessions was generally regarded by AMs as being less effective than committee scrutiny. In particular, there was widespread criticism of some government ministers' attempts to avoid answering questions and a tendency to read out prepared briefs, often of marginal relevance to the question posed. One issue was that the Assembly had adopted the Westminster practice that the Presiding or Deputy Presiding Officer could not challenge the Minister to answer the question, a situation that was compared unfavourably with committees where some chairs made use of powers to pressurise Ministers to supply genuine answers to questions.

This culture was also contrasted with attitudes towards contributions made by other members, for example the Presiding or Deputy Presiding Officer sometimes had an uncompromising attitude towards the time limits on speeches and had been known to switch the microphone off as soon as time was up, even if the speaker was in mid-sentence. The tight time limits on speeches also meant that AMs were often reluctant to accept interventions through concern that they would not have enough time left to deliver the core elements of their prepared agenda.

The size of the National Assembly

By any international comparison, the Assembly is a very small institution. With 60 elected members, it has fewer elected politicians than small US states such as Utah (73 members), North Dakota (94 members), Vermont (148 members) and Maine (151 members). Similarly membership of the Assembly is lower than 'small' German Lander such as Bremen (with 83 members) and Saxony Anhalt (97 members).

Within the UK context, the Assembly is less than half the size of the Scottish Parliament (129 MSPs) and substantially smaller than the Northern Ireland Assembly (with 108 MLAs), which has a population half the size of Wales. The number of elected national politicians is even smaller than many Welsh local councils. For example, Cardiff has 75 councillors and Swansea has 72. This small scale and the related capacity issues have generated proposals for more AMs almost from the beginning of devolution-the Richard Commission advocated an increase to 80 members.⁴

However, despite such calls for more members to discharge the Assembly's duties, there is no real consensus on change. The critical dynamic is perceived public opposition to increasing the number

of politicians. This has created something of a stalemate with few outside academia prepared to break ranks. Whilst acknowledging continuing capacity constraints arising from scale, the politicians we interviewed were all reluctant to campaign for enlargement.

AMs were also sceptical or hostile to proposals to enhance the capacity of the Assembly through a limited use of non-politicians. First, a suggestion that external individuals (who were not AMs) could be made Ministers was rejected by each of the four AMs interviewed in summer 2012 as undemocratic. Similarly, these AMs were all dismissive of the idea of making non AMs members of Assembly Committees, a reform that would draw on a local authority precedent, and preferred to restrict non-AMs to an advisory role (see also the National Assembly's Independent Review Panel, 2009).

However, the small number of AMs lies at the heart of many of the capacity restrictions of the Assembly. In particular, it was associated with the intensive workload of the third Assembly and the reduction in the scale of committee scrutiny in the fourth Assembly. The small scale also places a substantive burden on the political parties to select candidates of the highest calibre because the presence of more than one to two less effective members can quickly become an obvious weakness. In contrast, larger-scale institutions such as the House of Commons or the Scottish Parliament can easily absorb the diverse skills range and experience of elected members into the overall mix of roles that any legislature furnishes.

Wider engagement with the electorate

In recent times, parliaments and assemblies around the world have intensified their efforts in relation to outreach and engagement activities. Studies have revealed a paradigmatic shift in the way parliamentary organisations design and support their representative role (Stirbu and McAllister, 2008; Hansard Society 2010). From inward looking organisations, focused mainly on serving their members, many parliaments have become more outward looking, taking the initiative of connecting with the public at an institutional level, for example through educational programmes, visits, outreach, provision of information and partnership with civil society. Hence, public engagement features as a strategic goal for many legislatures around the world, for example the Scandinavian legislatures.

1. ICT, new media and the public profile of the National Assembly

The Assembly's robust media and external communication team has been active in ensuring the Assembly's presence on various social networking platforms such as Facebook and Twitter. However, new media alone cannot re-enforce participation patterns (Lusoli et. al. 2006). There is a conflict between the very nature of parliamentary organisations (slow, promoting a collective and neutral image) and the essence of new social media platforms (personal, individual, spontaneous). This paradox cannot easily be resolved by organisations seeking to promote a single corporate image and voice, but which are composed of, and shaped by, actors with often conflicting priorities (Leston-Bandeira, 2011). The task is bound to be even more complex for the Assembly whose profile has often been blurred, first by the corporate body structure and identity, then by the nomenclature of the two main political institutions in Wales: The National Assembly and the Welsh Assembly Government (Stirbu 2010). In 2011 the Welsh Assembly Government re-branded itself to 'Welsh Government', eliminating some of the confusion.

2. Education, outreach and partnerships with the civil society

The Assembly has used a series of innovative, yet not unique, ways to reach out to the public. For example, the Assembly has participated in important national festivals such as

the National Eisteddfod and the Royal Welsh Show. More high profile is the annual Presiding Officer's Tour of Wales and the Outreach Bus that raise awareness of the Assembly's business across Wales. These initiatives also play an important educational role, which remains essential in the context of a severe information deficit about the Assembly in Wales (Parry, 2009). The Education Services in Wales use the former Chamber in Ty Hywel to host various educational events (for instance the Youth in Politics two-day conference for A-Level students in February 2012). Additionally, in 2009, in partnership with local government, the Assembly established Step-up Cymru, a mentoring scheme for individuals from under-represented groups, aiming to develop community ambassadors who would represent the voices of these particular groups (Hansard Society, 2010).

Recommendations

In this section, we outline a series of recommendations in relation to the four overarching themes. We also indicate a hierarchy of change and specifically which changes could be introduced in the immediate and medium term and at minimal cost.

Support for scrutiny

In view of the encouraging trends concerning training and professional development, satisfaction amongst AMs with the quality of internal clerking and research support, together with the costs of proposing an increase in the number of staff, we make no recommendations concerning internal support. Our one recommendation in this area concerns enhancing external research support through statutory consultees.

1. Statutory Consultees

In the early years of devolution, several equality-based organisations enjoyed formal status as statutory consultees. These were the Disability Rights Commission, Stonewall Cymru, the Equal Opportunity Commission Wales, the Commission for Racial Equality and the Welsh Language Board. They all had standing invitations to attend meetings of the Equal Opportunities Committee as advisers and were closely involved with discussions around policy making. We suggest that such arrangements might be worth re-visiting, especially in view of the capacity problems experienced by some of the regular and recurrent consultees. We argue, therefore, that such changes could spread the consultation burden more equitably across civil society and governmental agencies. However, the capacity constraints on civil society identified here also raise the need for the Assembly to consider the potential resource implications for those organisations and to perhaps make some funds available to support them in this role. Given the deficiencies in engaging with some significant third sector agencies, it is also crucial that the statutory consultees are selected to reflect as diverse and wide a range of bodies as practical.

Scrutiny: institutional mechanisms

1. Committee structure

Given the potential substantive increase in legislation, early evidence from the Communities, Equalities and Local Government Committee and evidence from Scotland, where the legislative programme has marginalised wider scrutiny (see, for example Carman and Shepherd, 2009), we are concerned that non-legislative scrutiny might eventually be 'crowded-out' by legislative scrutiny obligations. We suggest, therefore, that if such a 'crowding-out' effect becomes evident

then specific legislation committees should be quickly re-established. We also suggest that reducing the number of AMs on each committee might have been a better approach to capacity problems than diminishing the number of committees.

2. Plenary scrutiny

In view of the relative weakness of ministerial scrutiny in plenary sessions, we suggest that the Assembly could depart from the Westminster tradition that the chair does not challenge the content of ministerial answers (Rogers and Walters, 2004). The Presiding and Deputy Presiding Officers should therefore be allowed to challenge Ministers to answer questions properly. Although this recommendation might appear a radical departure, it merely would bring practice in plenary into line with committee scrutiny procedure.

Given our findings about the impact of restrictions on the length of speeches in creating a quite artificial form of debate, often without exchanges between political opponents, we suggest that the Assembly consider increasing the permissible length of plenary speeches.

Assembly size

1. Assembly Associates

Despite the scepticism expressed by the politicians, we think that, given the constraints on size and a reluctance to increase the number of members, there might be merit in appointing a small number of individuals to serve on Assembly committees to enhance scrutiny. Such a proposal would build on practice in local authorities, where scrutiny committees often appoint independent members to enhance capacity (Wilson and Game, 2011). We suggest that these Assembly Associates might each serve for no more than four years and would have an unpaid and non-voting status. Such a reform would augment in-house expertise and add a greater diversity of backgrounds and sectoral experience to the Assembly's work.

However, we further suggest that it would not be appropriate to appoint more than a few Assembly Associates otherwise the democratic legitimacy of the Assembly might be weakened. Overall, we suggest that up to six could be appointed, a recommendation that would mean elected AMs retaining at least a 10-1 ratio.

2. 'Overhang' seats

A mechanism for providing some additional AMs without formally increasing the size of the Assembly might lie in the concept of 'Overhang seats' (used in the New Zealand Parliament, the German Bundestag and the National Assembly of Venezuela). The need for 'overhang seats' arises when a party in a Mixed Member Electoral System wins more constituency seats than its share of seats determined by the party vote (that is, its overall proportional entitlement). In such cases, the extra seats are not normally removed, rather the number of representatives in parliament increases just for the life of that parliament, so adding to its capacity (Soberg Shugart and Wattenberg, 2003; National Assembly Independent Review Panel, 2009).

3. Number of AMs

Given the substantial capacity constraints arising from the number of AMs and the comparative international data, we are sympathetic to the view that the Assembly requires more AMs. However, it is clear that at present the politicians feel unable to sell such an agenda to the electorate, an understandable concern in view of wider attitudes towards politicians and the

context of an economic recession. In addition, the contraction of the committee structure and the current legislative levels mean that currently the Assembly can operate with 60 members, although the position is far from ideal. Consequently, we believe there isn't an urgent imperative to try to persuade public opinion of the merits of increasing the size of the Assembly, especially in view of our recommendations with regard to AAs and 'overhang seats'.

However, the evolving devolved settlement in Wales means that at some stage these capacity issues will not be amenable to such relatively small-scale changes and the political leadership might be obliged to make a clear case for probably 80 AMs or risk the effectiveness of Welsh devolution. We suggest that the core factor might be the scale of the legislative programme. For example, if there were a shift to Scottish levels of legislation that would be likely to require an institution much closer in size to the Scottish Parliament – a comparison that might be useful in shifting opinion in favour of a larger Assembly.

Wider engagement with the electorate

1. Public participation

We stress the importance of retaining the experimentation and outward looking mentality with regards to public participation initiatives. In particular, there is potential to improve the physical access enjoyed by members of the public by adopting procedures used elsewhere, for example the 40 annual open days held by the Federal Assembly of the Swiss Parliament and public lunches arranged by the New South Wales and Queensland Parliaments. Similarly, the Assembly might consider organising broader public events. The Scottish Parliament, which hosts an annual Festival of Politics during the summer recess in August, has already adopted such an approach.

2. Information

We suggest that the Assembly should continue to regularly review the amount of information about its activities in the public domain and consider how the supply of information can be extended. In particular, attention could be given to the potential use of new ICT and social media as mechanisms for diversifying communication channels.

The Assembly could also draw on activities in other assemblies and legislatures. For example, the Swedish Parliament presents basic information in more than 20 languages, while legislative committees in the United States and Australia create extremely visible public and media profiles using the Internet and newspaper advertisements (Hansard Society, 2010). Furthermore, we suggest that the Assembly creates a stronger presence in the regions through partnership with public institutions such as public libraries or universities with the view to providing more information for the public. This approach has been used by the Swedish Parliament, which has created parliamentary info-spots in conjunction with public libraries around the country.

Hierarchy of change

We suggest that some reforms concerning wider engagement with the electorate might be introduced in the short term. These changes have no legislative implications and could be implemented, in part at least, through the expenditure of small amounts of money. However, the creation of a regional information infrastructure would have more significant resource implications

and might have to wait for a less restrictive public expenditure context.

Changes to institutional mechanisms and the establishment of statutory consultees could also be implemented without the expenditure of large sums of money, although they would entail significant procedural changes to the Assembly and thus might be best regarded as medium-term objectives.

We envisage changes to the size of the Assembly as a much longer-term agenda, given the legislative implications and the requirement to develop a substantive consensus and shift public and élite attitudes. In particular, increasing the number of AMs would have significant cost implications and thus can be viewed as a long-term aspiration that might have to wait until widespread acceptance of urgent capacity problems and or more prosperous economic circumstances.

Notes

- 1 Interview with policy officer, August 2012.
- 2 In the third Assembly 42 of the 60 AMs were members of one of the two governing parties (Labour and Plaid Cymru).
- 3 These figures relate to the end of the third Assembly.
- 4 Richard Commission report, 2004:
<http://www.richardcommission.gov.uk/content/finalreport/report-e.pdf>

References

- Bal Shekar, S., 'Departmentally-Related Standing Committees in India', in K. Kesavan (Ed.), *Parliamentary Committees in Japan and India*. New Delhi: Manak, pp.106-132, 2003.
- Bloomfield, D., Collins, K., Fry, C. and Munton, R., 'Deliberation and Inclusion: Vehicles for increasing trust in UK public governance', *Government and Policy*, Vol.19, 501-513, 2001.
- Carman, C. and Shephard, M., 'Committees in the Scottish Parliament', in C. Jeffrey and J. Mitchell (Ed.) *The Scottish Parliament 1999-2009: The First Decade*, Edinburgh: Luath Press, pp.21-27, 2009.
- Cole, M. and McAllister, L., *Committee Scrutiny: A Comparative UK Analysis*. Working Paper, 2011.
- Davidson, S. and Stark, A., 'Institutionalising public deliberation: Insights from the Scottish Parliament', *British Politics*, Vol.6, 155-186, 2011.
- Fox, R. and Korris, M., 'A Fresh Start? The Orientation and Induction of New MPs at Westminster Following the 2010 General Election', *Parliamentary Affairs*, Vol.65, 559-575, 2012.
- Franklin, M. and Norton, P., *Parliamentary Questions*, Oxford: Clarendon Press, 1993.
- Fukui, H., 'The Japanese Parliamentary Committee System', in K. Kesavan (Ed.) *Parliamentary Committees in Japan and India*. New Delhi: Manak, pp.6-15, 2003.
- Hansard Society, *Lessons from Abroad: How Parliaments Around the World Engage with Their Public, A report for the Group on Information for the Public*. London: Hansard Society, 2010.
- Hazan, R., *Reforming Parliamentary Committees*. Columbus: Ohio State University Press, 2001.
- Kesavan, K., 'The Role of Parliamentary Committees in Japan', in K. Kesavan (Ed.) *Parliamentary Committees in Japan and India*. New Delhi: Manak, pp.38-70, 2003.
- Leston-Bandeira, C., 'Parliament and Public Engagement: Two sides of the same coin' presentation for the ECPRD, Parliaments on the net IX, May 2011, URL: <http://www2.hull.ac.uk/fass/pdf/Parliament%20and%20Public%20Engagement.pdf>, 2011.
- Lusoli, W., Ward, S. and Gibson, R., 'Reconnecting Politics? Parliament, the Public and the Internet', *Parliamentary Affairs*, Vol. 59, 24-42, 2006.
- McAllister, L. and Stirbu, D., 'Developing Devolution's Scrutiny Potential: A Comparative Evaluation of the National Assembly for Wales's Subject Committees', *Policy and Politics*, Vol. 35, 289-309, 2007.
- McAllister, L. and Stirbu, D., 'Influence, Impact and Legacy: Assessing the Richard Commission's Contribution to Wales's Evolving Constitution', *Representation*, Vol. 44, 209-224, 2008.
- McKay, W. and Johnson, C., *Parliament and Congress*, Oxford: Oxford University Press, 2010.
- National Assembly, Independent Review Panel, *Getting It Right for Wales*, Cardiff: National Assembly for Wales, 2009.
- Newton, T., *The Challenge for Parliament*, London: Hansard Society, 2001.
- Norton, P., *Parliament in British Politics*, Palgrave, 2005.
- Parry, E.J. (Chair), *Report of the All Wales Convention*, Cardiff: Welsh Government, 2009.
- Richard, I., *Commission on the Powers and Electoral Arrangements of the National Assembly for Wales*, London: Stationery Office, 2004.
- Rogers, R., and Walters, R., *How Parliament Works*, 5th edition, Harlow: Pearson, 2004.

Searing, D., *Westminster's World*, Cambridge: Harvard University Press, 1994.

Soberg Shugart, M., and Wattenverg, M., *Mixed-Member Electoral Systems: The Best of Both Worlds*, Oxford: Oxford University Press, 2003.

Steinack, K., 'Between Apathy and Enthusiasm: An International Comparison of MPs' Attitudes Towards Parliamentary Training', *Parliamentary Affairs*, Vol. 65, 541-558, 2012.

Stirbu, D., *The Invisible Constitution: Rhetoric and Reality in Constitution Making in the UK*, doctoral thesis, Liverpool: University of Liverpool, 2010.

Stirbu, D. and McAllister, L., 'Parliaments and the Citizens: A Whistle Stop Through Parliamentary Approaches to Citizens' Engagement Elsewhere', Briefing Paper for the National Assembly Parliamentary Services Board, presented on 3 March 2008 at the National Assembly.

Stone, B., 'Size and Executive-Legislative Relations in Australian Parliaments', *Australian Journal of Political Science*, Vol.33, 37-55, 1998.

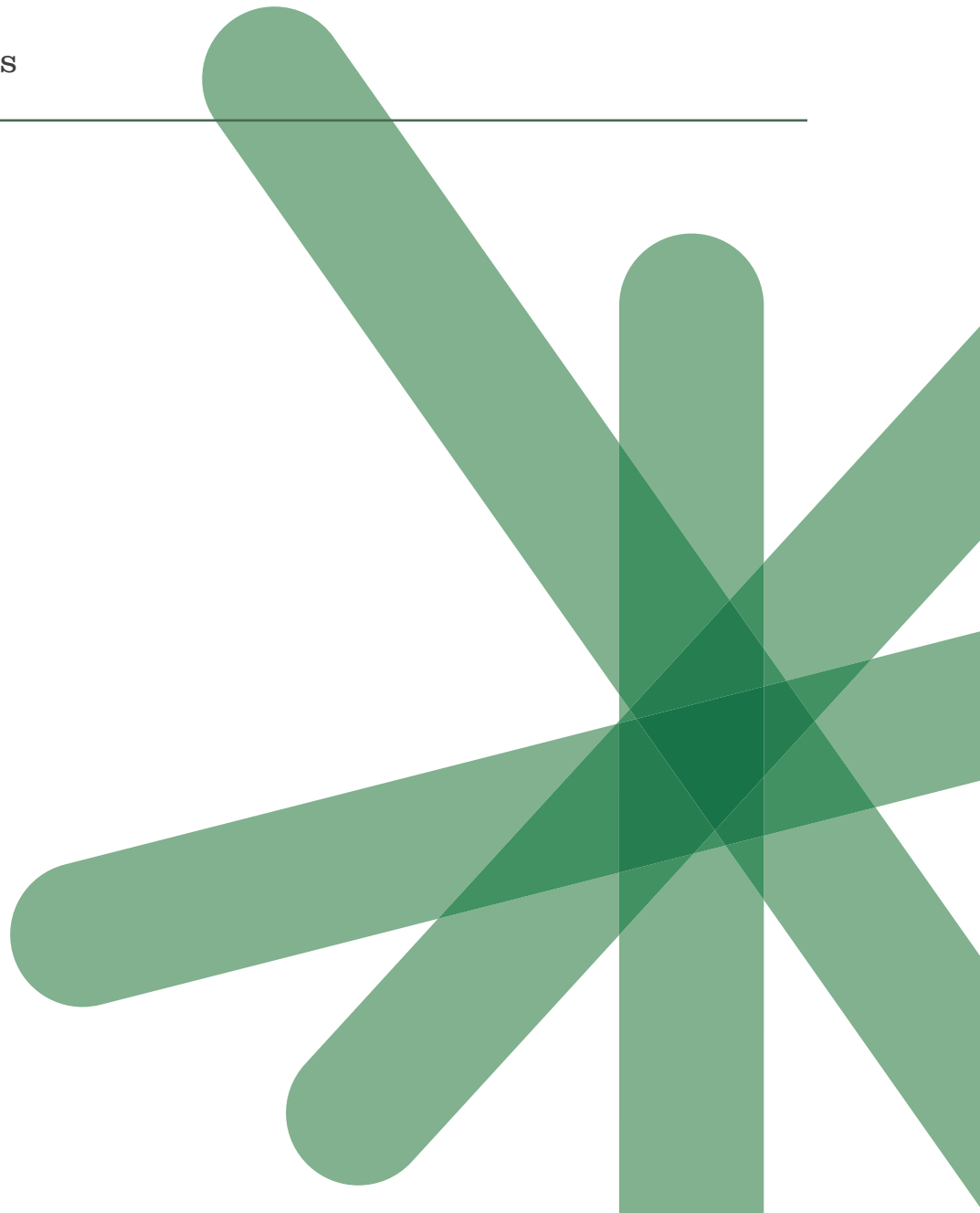
Sustainability Committee, *Legacy Report*, Cardiff: National Assembly, 2011.

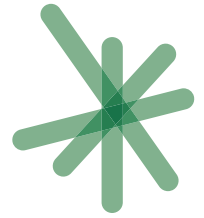
Wilson, D. and Game, C., *Local Government in the United Kingdom*. Basingstoke: Palgrave, 2011.

Chapter 2

Policy-making Capacity of Political Parties in Wales

Anwen Elias





Policy-making Capacity of Political Parties in Wales

Anwen Elias

Introduction

Political parties are central to any democratic political system. They are a key linkage between citizens and government. By contesting elections, political parties aim to mobilise popular support for a particular vision of how society should be organised. Translating this vision into concrete policies presents parties with major challenges. It tests their ability to respond to and reflect the needs and aspirations of their supporters, and to come up with appropriate solutions that can improve society.

This paper considers the extent to which political parties in post-devolution Wales have been able to meet these challenges. The empirical evidence presented here draws on interviews undertaken during July and August 2012 with representatives of the main Welsh political parties - Welsh Labour, Welsh Conservatives, Welsh Liberal Democrats and Plaid Cymru. A full list of interviews is provided in Appendix 1. The paper is divided into two parts. The first outlines the current capacity and procedures for making policy within the Welsh parties. The aim is to identify changes in policy-making capacity in the run-up to, and since, the creation of the National Assembly. Drawing on this empirical evidence, the second section identifies areas of policy under-capacity and makes recommendations for addressing these weaknesses. Particular attention is paid to resources for policy development within government, and the public funding for policy development within political parties more generally.

Dynamics of policy-making in Wales' political parties

This section outlines the process by which policy is generally made in each of Wales's political parties, and the ways in which this has evolved in the post-devolution period. The main focus here is on capacity to make policy related to the National Assembly, since this is the clear priority of the parties themselves. A much briefer consideration is given to policy-making with regard to other territorial levels, whilst the implications of being in government for policy-making are considered in the next section.

Welsh Labour

The principle motor for policy generation in Welsh Labour is the Welsh Policy Forum, introduced in 1998. Mirroring the National Policy Forum in place within the UK party¹, the model replaced a system of formulating policy based on debating and passing resolutions at conference, with a rolling cycle of policy development leading up to the next Assembly election. The work of directing and co-ordinating the Welsh Policy Forum's activities is done by a Joint Policy Committee, with

one policy officer employed in Labour central office (and financed by the UK party) assisting with collating information and drafting documents. Party members are given the opportunity to discuss and comment on policy documents drafted by the Welsh Policy Forum. After the formal approval of a Special Conference, these then form the basis of an Assembly election manifesto. Whilst constitutionally the party's Welsh policies must also receive the formal approval of the UK party's National Executive Committee, in practice this very rarely undermines the control of the Welsh party organisation over Welsh policy.

There are limitations to the scope of Welsh Labour's policy-making. Most importantly, the Welsh Policy Forum (and the party's annual conference) is proscribed from discussing policies that fall outside the Assembly's area of competencies. Moreover, the party has very limited formal input into policies for General and European election manifestos in Wales. These are largely produced at the initiative of Welsh MPs and MEPs, with the party élite in Wales only consulted in order to avoid policy inconsistencies and inaccuracies.

In spite of its deliberative aspirations, the policy forum process in Wales has been subject to considerable criticism.² Interviewees identified two main problems. Firstly, the process has been dominated by the party élite, in particular government ministers and their Special Advisers. According to one interviewee,

"The way the manifesto is arrived at in Wales doesn't necessarily reflect, or have much to do with, the way that the Welsh Policy Forum operates... it is Special Advisers and Ministers... that write the manifesto in the end".

This trend was particularly apparent in the cycle running up to the 2007 Assembly election. In response to internal discontent with Executive control of the process, the approach to the 2011 manifesto was different. Greater emphasis was placed on consultation not only within the party, but also with external interests in order to generate "a manifesto made by the people of Wales for the people of Wales".

Secondly, the capacity of other parts of the party to contribute to the deliberative process, thus serving as a counterweight to the policy resources available to the party in government, remains limited. On the one hand, it can be difficult for ordinary members (via branches and constituency parties) to contribute meaningfully to policy deliberation. Providing informed responses by specified timetables is difficult for all but the most active and engaged grass-roots associations. On the other hand, interviewees raised questions about the capacity of the party at large - members, affiliated organisations and the professional organisation - to generate new ideas. One commented that it is insufficient to expect a voluntary organisation to be the exclusive source of new policy ideas. Others noted that trade unions affiliated to Welsh Labour have very limited policy capacity whilst the party itself only employs one professional policy officer.

One attempt to overcome this lack of capacity was the creation of *Ideas Wales*, an arms-length think-tank with minimal central-party funding aimed at generating new policy ideas that could feed into the policy forum process. However, the level of activity (and hence output in terms of policy suggestions) has fluctuated depending on the varying levels of commitment of key individuals associated with it. The result is that much of the policy initiative within Welsh Labour inevitably rests with better-resourced government ministers and their Special Advisers. One former Adviser recalled their driving role in providing policy direction for the party's manifestos in the following terms:

"Our job is to make sure that we're reading what's going on there, think-tank land, scouring

around for new policy developments that can be seen coming... Our job is to add to the gene pool of ideas that are available for manifesto construction.”

Welsh Conservatives

Until 1997, Welsh policy-making within the Conservative Party had largely been the responsibility of the UK party.³ In the context of this historical absence of a policy capacity within the Welsh party organisation, new processes were gradually created from 1999 onwards.

What emerged was a model of policy-making driven almost exclusively by the party's Director of Policy, a post held by David Melding AM until 2011. This involves formulating policy documents in the key areas of Assembly competence, and putting these out to extensive consultation among party members as well as external civil society groups. Two policy conferences a year provide further opportunities to discuss these ideas, although few final policy decisions are taken here. Final manifesto approval is provided by a Welsh Management Board composed of representatives of the party's voluntary, elected and professional wings. Just as with Welsh Labour, the Welsh Conservatives' Annual Conference has no formal role in approving party policy. Thus there are limited direct opportunities for party members to sign off the party's policy programme, creating a policy process that is strongly directed by the party élite.

It should be noted that there is no policy-development capacity within Welsh Conservative Central Office (made up of a core staff that is funded by a block grant from the UK party). Whilst it is in theory possible to take advantage of the research facilities within Conservative Central Office, in practice this is only done for issues that cut across devolved policy boundaries. Policy development is thus driven by key individuals, drawing in an *ad hoc* manner on limited resources available to the Welsh party organisation and from Assembly allowances to individual AMs and party groups.

Indeed, the party has enjoyed considerable policy autonomy in Wales, with successive leaders of the UK party contenting themselves with letting the Welsh party 'get on with it'. Interviewees reported that co-ordination has only been required on the big constitutional questions. Since being in government in Westminster, there has been increased dialogue, and closer day-to-day co-ordination of policy positions, especially with the Welsh Office. However, there are limited opportunities for the Welsh party to formally feed into policy-making within the party more generally, in relation, for example, to General Election and European manifestos. As with Welsh Labour, the Welsh organisation is routinely consulted on, but not very involved with, policy-making beyond that which is relevant for the National Assembly.

Welsh Liberal Democrats

The Welsh Liberal Democrats are defined as a state party within a larger federal (UK) organisation. As such, they have always had a tradition of policy-making in Wales, in all areas apart from fiscal policy, defence and law and order (Deacon, 2007: 156). Because of this history of autonomous policy-making in Wales, Welsh Liberal Democrat interviewees were unanimous in declaring their party to be among the best prepared for devolution. As one put it, "it was in our DNA".

Little organisational adaptation has thus been required. Policy-formulation has always been, and remains, the responsibility of the Welsh Policy Committee composed of seven elected members, a number of representatives from other committees (for example, the Welsh Campaigns Committee), some co-opted members, the party's President, MPs and AMs. The Policy Committee and its sub-committees have responsibility for determining areas of policy development, and preparing policy

papers for discussion at the party's conference. Only when approved by conference does a policy proposal become official party policy, and available for manifesto inclusion.

Interviewees stressed the independence of this policy process in post-devolution Wales, with the party's policy autonomy having never been threatened by interference from the federal party. The same model works for producing Welsh General Election and European manifestos (although a lack of resources means there is much closer co-ordination with federal policy-making bodies).

This model of policy-making places great emphasis on the active engagement of party members (Evans, 2007). However, post-devolution it has come under strain in different ways. Firstly, the efficacy of the process itself has been questioned. One interviewee described the party's model of policy-making as "absolutely tortuous". The need to respond to day-to-day political developments within the National Assembly requires policy flexibility that is constrained within the extant model of inclusive decision-making. Similar tensions were experienced during the Liberal Democrats' period in coalition government (2000-2003), when party members felt excluded from executive decision-making because "the structures in which policy and decisions are supposed to be taken had been bypassed".

Secondly, the party has struggled to generate high-quality and appealing policies, not least because of a lack of funding available for policy development.⁴ The Welsh Policy Committee relies overwhelmingly on unrewarded voluntary contributions, and there is only one member of central office staff who has a policy development remit (financed by the Electoral Commission's Policy Development Grant scheme). One interviewee who held this role recalled the difficulty of carrying out the role effectively:

"You have to cover a yawning chasm. I had to do health one day and European funding the next. And you just can't be an expert on all of those things in any way".

In order to address this weakness, there have been efforts from the outset of devolution to involve external actors in the process of generating policy ideas. Most recently, this has taken the form of inviting lobbyists and civil society actors to tea and biscuits with Liberal Democrat researchers and policy officers in the Assembly. In this way, Assembly resources aimed at supporting the day-to-day work of AMs are being used to fill a gap in policy development capacity in the party outwith the Assembly.

Plaid Cymru

As with the Welsh Liberal Democrats, for Plaid Cymru the Annual Conference has always been, and remains, the body that determines broad policy principles. However, within these parameters there has been scope for experimentation with different modes of policy-making. One outcome is that the Annual Conference has evolved into more of a forum for approving broad policy principles, rather than discussing and deciding on policy details. This latter responsibility has shifted over time, with paid policy staff in central office, elected party officers, and elected AMs (and, from 2007-2011, Government Ministers) contributing to, and sometimes competing for control of, policy formulation. Whilst policy-making for General and European elections is subject to broadly the same procedures, the party's MPs and MEPs play a more dominant role in drafting documents and manifestos.

Post-devolution Plaid Cymru's aim has always been to generate policies befitting a credible party of potential government within the National Assembly. Initial adaptation to meet this goal was characterised by three distinct developments. Firstly, new capacity to develop policy within the party's professional organisation was created. This trend began in advance of the first Assembly elections, but was confirmed and increased as a result of Plaid Cymru's qualification for a Policy

Development Grant from the Electoral Commission. This funding stream has provided an annual sum of between £134,000-£150,000 for the specific purposes of developing policies for inclusion in manifestos for local, Assembly, Westminster and European elections (Electoral Commission, 2012).

Whilst some party interviewees speculated about whether the party had put these funds to best use, there was a general recognition of the impact this money had on the party's policy-making capacity. In the words of one:

"I'm absolutely of the opinion that this [grant] enriched the process of formulating policy".

Alongside this new policy unit, a second development saw the creation of a Policy Forum, composed of a mix of elected and unelected party members, with the remit of drafting and commissioning policy in a more inclusive manner. Under the direction of the Director of Policy, the aim was to:

"...create a forum for on-going policy discussion... so that [policy propositions] weren't as much of a shock at the annual conference".

Thirdly, a research capacity was created within the National Assembly, as AMs decided to pool some of their individual administrative allowances to employ researchers on a group basis. Plaid Cymru was unique among the Welsh political parties in doing this.

However, these developments had the result of creating a policy-making process which was "disjointed" and un-coordinated. Increased policy-making capacity did not necessarily result in better policies. Addressing these weaknesses took time. On the one hand, the Policy Forum gradually declined in its level of activity. On the other hand, electoral decline in the 2003 Assembly election and the 2005 General Election led to a decline in the amount of public funds available for research purposes. In turn this prompted a change in personnel at the central policy unit, and the adoption of a clearer leadership structure for the party.⁵

These experiences also informed a new approach to the development of the 2007 Assembly manifesto, based on extensive public consultation and one-day policy conferences as the basis for policy development. According to interviewees, this process led to more comprehensive and relevant policies. A recent internal review of the party's policy-making procedures recommended building on this model by better utilising members' and external expertise, creating standing policy working groups, and making better use of research facilities available to AMs, MPs and MEPs (Plaid Cymru, 2012: 24-6).

Improving the policy-making capacity of Welsh political parties: considerations and recommendations

All political parties in Wales have sought to improve their capacity to generate high-quality public policy, as a basis for good governance within the National Assembly for Wales. There is a common trend of **moving away from the Annual Conference as the primary policy-making forum**, towards alternative processes that are deemed to be produce higher quality and more appealing policies, in a more effective way. The use of policy forums, policy conferences and seminars have become widespread (albeit more *ad hoc* in some parties than others), as has the involvement of civil society actors in the generation of new policy ideas. All four parties are increasingly seeking to develop 'made in Wales' policies that are the product of extensive internal and external consultation. These developments have the potential to enhance the quality of parties' policies for Wales.

There is also evidence, however, of areas where political parties' policy-making efforts are frustrated. In some instances problems are of a procedural nature and relate to historical 'ways-of-doing' policy. This is the case with the formal models of policy-making within Welsh Labour and the Welsh Liberal Democrats. Such issues are not considered further here, as they relate to individual parties' decisions about how they organise themselves internally.

Interviewees also pointed to the weakness of Welsh civil society as a contributing factor to under-developed policy-making capacity. Parties of all ideological persuasions acknowledged the importance of such actors in contributing to policy generation, and noted important improvements in their capacity to contribute to this process since 1999. However, there was a consensus that more could be done. In the words of one interviewee:

"Any perceived weakness in the political parties is reflected in a wider weakness in the Welsh policy community".⁶

However, other problems of policy-making capacity relate to the availability of resources to support policy formulation. Again, in part this is an internal party matter, as political parties make their own decisions about how to spend funds derived from sources, such as (declining) membership and affiliation fees, and fundraising. There are two additional considerations however: (i) resources for policy development whilst in government; and (ii) public funding for policy development within political parties. These are now considered in turn.

(i) Resources for policy development whilst in government

It was noted above that policy formulation processes within the Welsh political parties turn primarily around the generation of content for Assembly election manifestos. This focus changes when a party is in government. Three of the four Welsh parties have experience of being in government within the Assembly. And whilst manifestos form the basis of a party's activities in government, interviewees also acknowledged that assuming executive functions gives rise to distinct policy-making requirements. Policy must be more detailed, and much often respond to changing political (for example, emergence of a coalition), legislative, regulatory and financial constraints.

Under these circumstances, the party in government, in particular Ministers and their Special Advisers, has strong control over policy-making, at the expense of the party at large and the party group in the Assembly itself. One Labour AM acknowledged the implications of this shift in power in the following unambiguous terms:

"One thing I've never quite understood... is what is the point of being a backbench Labour MP?"

Another actor in policy-making at the executive level is the civil service. However, among interviewees with government experience there was a general concern with the low quality of policy advice provided to Ministers. One stated that:

"... the Welsh civil service is obsessed with policy-making, but on a low grade level. You don't get the big strategic thinking."

Another recalled how their Special Adviser had to:

"... re-write things because the material coming out of the civil service was so awful, not

just in terms of the script but also in terms of ideas and depths.”

This weakness undoubtedly undermines the capacity of the Welsh Government to make policy, although as the subject of another research paper, it is also not considered further here.⁷

What these comments also point to, however, is the role played by Special Advisers in policy-formation within the governing sphere. This is enhanced in a context where Ministers require policy advice that is not forthcoming, or is inadequate, from the civil service. The example of Welsh Labour also points to the driving role Special Advisers can play in driving policy-formation within the party beyond government, given the resources and expertise that this position can bring to policy formulation.

This observation is an internal matter for political parties themselves to deal with, as it relates to the balance of power between different party actors in the policy process. A different issue, however, is the way in which Special Advisers are appointed. General procedures on the employment of Special Advisers are set out in Sections 15 and 16 of the Constitutional Reform and Governance Act 2010, as well as the Welsh Government’s Ministerial Code (Welsh Government, 2011: 7). However, one issue raised by interviewees was the way these posts were advertised. It was noted that whilst under Rhodri Morgan, external advertisement was the norm, this has recently changed with posts being advertised internally. The perceived result has been the appointment of individuals notable more for their loyalty to the Labour Party than their substantive policy or policy-making expertise. This development was criticised by one interviewee as being “extremely worrying” in terms of the implications for the quality of government policy. Another argued that Special Advisers needed to have policy expertise:

“... otherwise Ministers are so vulnerable to civil service capture. If the only advice they ever hear is that from civil servants, they soon come to rely on that in a way that you are struggling to get an element of challenge in the system”.

This raises the question of whether there is a need for **change in the procedure for appointing Special Advisers, requiring greater transparency in their appointment through external advertisement and a clearer requirement for policy expertise alongside party political affiliation.**

(ii) Public funding for policy development within political parties

Here, two aspects are considered: the support available to AMs to undertake their Assembly responsibilities; and public funding available via the Electoral Commission in the form of Policy Development Grants.

Assembly financial support for policy development

From the outset, the National Assembly has made funds available to AMs to support their work. Policy development has been a key aspect of this work (National Assembly Independent Review Panel, 2009: 40). The employment of research staff has been a way of enabling AMs to deliver on this aspect of their remit. Additional funds have also been available to party groups to undertake their work effectively, including policy research.

Comparable to ‘Short’ money in the House of Commons⁸, one important difference is that funds are available to all party groups with at least three AMs, as opposed to opposition parties only in the House of Commons.⁹ In its report on allowances to support AMs’ work, an Independent Review Panel was concerned that these funds were not being used in such a way as to “maximise the strategic capacity of the Assembly to cope with its workload” (National Assembly Independent Review Panel, 2009: 111). One recommendation was to centralise resources within party groups, in order to enhance

the policy development and scrutiny capacity of political parties within the Assembly.

However, interviewees, expressed general satisfaction with the level of support provided to AMs to undertake their Assembly work. Although some members questioned whether current funding levels would be adequate given the Assembly's new legislative powers, the point was also made that **there is already a fair and transparent process in place for investigating such issues**.¹⁰ One interviewee recalled how "the Labour group was incensed" at the suggestion made by the Independent Review Panel that resources should "basically be put to the party machine, or to the group offices". There was a strong feeling from interviewees of all political colours that **AMs and their Assembly groups should have flexibility in deciding on the internal allocation of resources**. This was deemed to be essential in order to reflect the different nature of AMs' workload, with the general trend being for support staff to focus as much on administrative work as on research to underpin policy development. One reason cited for this was the improving quality of the Assembly Commission's Members' Research Service, which had reduced the need for research capacity within party groups.

Furthermore, a clear distinction was made between research support for policy development relating to the day-to-day activities of AMs within the National Assembly, and policy-development more generally as the basis for developing party manifestos. Several interviewees argued that the latter should be the exclusive responsibility of political parties outwith the Assembly, and that its resources should not be used for these purposes. In practice, this distinction may well be difficult to sustain, as the example of the Welsh Liberal Democrats suggests above. It leads on to a consideration of the public funding available to political parties in Wales to enhance their policy-making capacities.

The Electoral Commission's Policy Development Grants

The Electoral Commission administers the Policy Development Grant scheme under section 12 of the Political Parties, Elections and Referendums Act 2000. The scheme allows the Commission to allocate up to £2 million each year to assist in developing policies for inclusion in manifestos for elections to European, Westminster, devolved and local elections. Eligible parties are those parties that, on the 7 March each year, have at least two sitting Members of the House of Commons who have taken the oath of allegiance provided by the Parliamentary Oaths Act 1866. The parties currently eligible for a grant are: the Conservative Party, the Democratic Unionist Party, the Labour Party, the Liberal Democrats, Plaid Cymru, the Scottish National Party and the Social Democratic and Labour Party. There are clear guidelines as to the possible uses for, and limits on, this money. The Electoral Commission also audits parties' expenditures annually.

This system of public funding is at odds with the UK's model of devolved government in two ways:

- Eligibility is based exclusively on a political party having seats at Westminster. This fails to recognise the multi-level nature of the UK polity post-devolution, and the possibility for political parties to gain representation at the devolved level of government without necessarily being present in the House of Commons. To date, this has not happened in Wales, but it has in Scotland (with the parties such as the Scottish Green Party and the Scottish Socialist Party having won seats in the Scottish Parliament). Under the current provisions, these parties were not eligible for public funding.
- In the event that political parties are eligible for a Policy Development Grants, the money is transferred to the party entity that is registered with the Electoral Commission for accounting purposes. However, there remains a stark imbalance in Welsh parties' access to public funds for policy development purposes. Whilst Plaid Cymru is recognised

as such an entity, the other political parties in Wales are not. Grant funds thus go to the UK party to be distributed internally at the party's discretion. As noted above, the Welsh Liberal Democrats derive some benefit from these monies in the form of a funded research officer post. However, it has proved impossible to determine to what extent the same money trickles down the Welsh Labour and Conservative parties as part of their block grants from their respective UK parties.

Revising the allocation of Policy Development Grant funds is necessary in order to acknowledge the territorial nature of parties' policy development in a devolved UK. Doing so could also make a major contribution to the capacity of political parties in Wales to produce high-quality policies as a basis for better governance.

That such potential is there is evident from Plaid Cymru's enriching experience as a consequence of receiving Policy Development Grants, as outlined above. Making such resources available to other political parties in Wales on a fair and transparent basis could further enhance their ability to engage meaningfully and effectively with policy-making. It would support the current areas of weakness as identified in the section above, such as initiatives like Welsh Labour's *Ideas Wales* think-tank, and professional staff to undertake and support policy-development.

There are examples of public funding of political parties that takes the territorial structure of the state into account. In Germany, party funding is partly¹¹ financed on the basis of the number of votes won by a party in the most recent Land (regional), Bundestag (general) and European elections.¹² Within specified caps on the amount of funding any party can receive, there is a formula for dividing the sums due to political parties between Land and federal party organisations (Bundestag, 2010).¹³ It should be noted that this level of public funding is substantially higher than that currently available for Policy Development Grants in the UK. Neither are the German public funds limited to policy development.¹⁴ Nevertheless, this model offers a way forward for thinking about the reform of the current PDG scheme in such a way that recognises the territorial structure of the UK state, and increases the resources available for developing policy-making capacity within the devolved nations.

Objections to such a reform of the current Policy Development Grant system are numerous. Interviewees noted the likely public hostility to any discussion about the public funding available to political parties, given the current climate of financial restraint and general distrust of the political class. Several made a related point about the propriety of giving political parties money to fund policy development.

Moreover, among the state-wide parties in Wales, whilst the Liberal Democrat interviewees bemoaned the lack of funding for policy development, there was no strong feeling among Welsh Labour and Conservative representatives that this was a priority issue. The words of one interviewee was representative of this sentiment:

"I don't think we do too badly in terms of getting our share [of public funding for political parties], and undoubtedly we benefit in an ideas sense from being part of a wider UK pool. If the system were to dilute our ability to be part of a wider debate, then there would be a downside".

Another interviewee was concerned about the possible impact on increasing public funding for policy development on intra-party democracy:

"... increased public funding dents radicalism...Public funding of parties almost always

follows votes, rather than what its ideology is... The more power you give to the centre, who would control that decision making?"

These are valid concerns, not least in terms of the politics of getting reform of the Policy Development Grants into legislation - this would require revising the Political Parties, Elections and Referendums Act 2000 in Westminster. Nevertheless, the territorial anomalies in the scheme's administration and the potential for enhancing policy-making capacity in Wales and other devolved nations merit serious consideration of such a reform.

Notes

- 1 The Scottish and Welsh Labour parties are allocated 8 members each on the National Policy Forum (two from the regional party, five representing local constituency parties and one from local youth sections) out of around 180 members (Laffin and Shaw, 2007: 64).
- 2 Such criticisms are not confined to Wales, but have also been made of the system at a UK level (see Laffin and Shaw, 2007: 64). Under the Ed Miliband's leadership, a review of *Partnership in Power* was launched and is on-going (see Labour Party, 2010).
- 3 In 1969, a Welsh Policy Committee was resurrected within Conservative Central Office composed of Welsh parliamentarians. With the party back in government from 1979 until 1997, the policy initiative shifted to the Welsh Office, under the direction of the Secretary of State for Wales.
- 4 The party in Wales is responsible for raising its own finances, although in practice difficulties in doing so has meant assistance being provided by the UK party.
- 5 Prior to February 2006, the leader of the Plaid Cymru Group in the Assembly was not necessarily also the leader of the party as a whole. These two roles were merged in 2006, designating the leader of the party in the Assembly overall party leader. According to some interviewees, the previous division of labour contributed to confusion over the priorities for policy-making within different fora within Plaid Cymru.
- 6 This dimension is considered in more detail in the accompanying Research Paper examining civil society.
- 7 See the accompany Research Paper on the Welsh civil service.
- 8 Named after the Labour MP Ted Short who, when Leader of the Commons in 1975 first introduced statutory provision of funding for Opposition parties for research purposes.
- 9 A further difference in Scotland is that this money is available only to 'non-executive parties' with the exception of small coalition partners (see SPICe, 2010).
- 10 This is via a Remuneration Board established by the National Assembly in 2010. The Board is currently reviewing the levels of support given to AMs and is due to report in April 2013.
- 11 A second aspect of party funding takes into account the funds received by parties from other sources, such as membership contributions and donations.
- 12 Specifically, under section 18 (3) of the Law on Political Parties, parties entitled to state funding receive €0.85 per valid vote won at the most recent European, Bundestag and Land elections up to a total of four million votes, and €0.70 for every additional vote thereafter.
- 13 Of the total state funding allocated to the party as a whole, party organisations at the Land level receive €0.50 for each vote cast for the party at the most recent Land elections.
- 14 This function is largely undertaken by foundations closely linked to German political parties, but which have a separate revenue stream derived from the annual federal budget (for more information, see Pinto-Duschinsky, 1991).

References

Bundestag, *State Funding of Political Parties in Germany*. Available at: http://www.bundestag.de/htdocs_e/bundestag/function/party_funding/party_funding_05.pdf, 2010.

Deacon, R., 'The Welsh Liberal Democrats: From government to opposition and then back again?' *The Political Quarterly* 78: 1, 156-164, 2007.

Electoral Commission, 'Policy development grants: allocation made under the agreed scheme', 2007. Available at: http://www.electoralcommission.org.uk/party-finance/public_funding.

Evans, E., 'Grass-roots influence: Pressure groups within the Liberal Democrats', *The Political Quarterly*, 78: 99-107, 2007.

Labour Party, *Partnership into Power. Annual Conference 2010: Review of Labour Party Policy Making*, 2010. Available at: <http://www.labouremail.org.uk/files/uploads/752201ad-cfaa-9694-c121-9f0f7d5be065.pdf>

Laffin, M. and Shaw, E., 'The New Sub-national Politics of the Labour Party', *Party Politics*, 13, 1: 88-108, 2007.

National Assembly for Wales Independent Review Panel, *Getting it Right for Wales*, 2009. Available at: <http://www.assemblywales.org/irp-reportjuly09-e.pdf>.

Pinto-Duschinsky, M., 'The party foundations and political finance in Germany', in Seidle, L.F. (ed), *Comparative Issues in Party and Election Finance*. Toronto: Dundurn Press, pp. 179-250, 1991.

Plaid Cymru, *Moving Forward: Renewing Plaid for Wales*, Plaid Cymru, 2012.

SPICe, *Parliamentary Pay and Expenses*. 9 September 2010, No. 10/56, 2010. Available at: <http://www.scottish.parliament.uk/SPICeResources/Research%20briefings%20and%20fact%20sheets/SB10-56.pdf>.

Welsh Government, *Ministerial Code*, Welsh Government, 2011. Available at: <http://wales.gov.uk/about/cabinet/code2011/?lang=en>.

Appendix 1 - List of Interviews

Welsh Labour Party

Andrew Davies
Mark Drakeford AM
Gary Owen
Chris Roberts
Darren Williams

Welsh Conservative Party

Nick Bourne
Lisa Francis
Leigh Jeffes
Lyndon Jones
David Melding AM

Welsh Liberal Democrats

Myrddin Edwards
Lord Mike German
Alison Goldsworthy
Baroness Jenny Randerson
Kirsty Williams AM

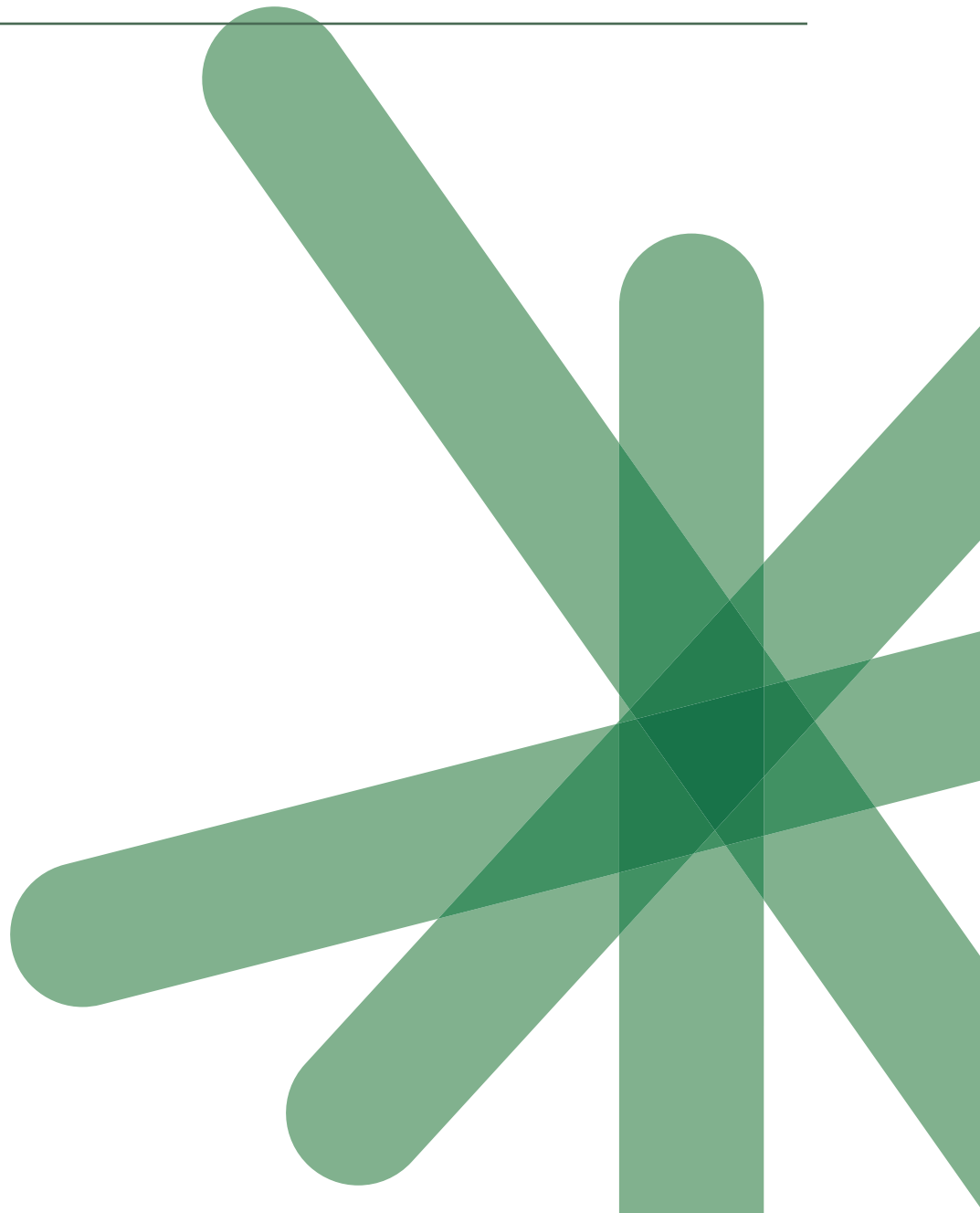
Plaid Cymru

Elin Jones AM
Simon Thomas AM
Dafydd Trystan

Chapter 3

The Capacity of the Civil Service in Wales

Anna Nicholl





The Capacity of the Civil Service in Wales

Anna Nicholl

Introduction

This paper is concerned with the civil service working within the Welsh Government, a relatively small proportion of the total numbers of civil servants working in Wales. It covers three areas:

- The capacity of the civil service in Wales in terms of developing policy and legislation as well as operational delivery.
- The relationships of the Welsh civil service with the UK Home civil service and the wider public sector in Wales.
- The level of political control and co-ordination.

Research for the paper comprised a review of existing literature and websites, plus conversations with 19 senior figures within and outside the Welsh Government. These included current and previous Ministers and Special Advisers, civil servants ranging in grade from Head of Policy to Director General and senior figures independent from government but with experience of either working with or within government at a senior level. I have also drawn on my own experience as Special Adviser to the Welsh Government between 2008 and 2011.

I argue that whilst there are real capacity issues within the Welsh civil service, the issues that need to be addressed as a priority do not require the creation of a separate civil service for Wales. Neither are mergers with other public bodies in Wales nor politicization of the civil service silver bullets for civil service reform. Indeed, any of these could be a distraction from dealing with the more pressing issues around leadership and accountability – including political leadership and accountability – management, human resources, policy and delivery.

Overview of capacity

As of March 2011 there were 5,360 full time equivalent civil servants within the Welsh Government (ONS, 2011). At first glance this seems comparable with the Scottish Government, which employed 5,460 civil servants excluding executive agencies in March 2011 (ONS, 2011). However, the two governments have a different mix of functions delivered centrally and by government sponsored bodies which makes direct comparison impossible.

There have been significant cuts to the Welsh civil service following recent budget cuts across the UK civil service. In response this, the Welsh Government introduced *Managing for Less*, an efficiency

programme that reduced the size of its estate and saw 1,000 people leave the organisation via voluntary redundancy. This significant reduction in capacity appears to have been managed smoothly but has taken place at a time of increased responsibility. However, capacity is not simply about numbers. It is also about ensuring the right people with the right skills are in the right place at the right time. *Managing for Less* does not appear to have addressed these issues.

Legislation

The most recent challenge is to deliver the first Welsh Government legislative programme following the implementation of Part 4 of the Government of Wales Act 2006 from May 2011. Everyone I spoke with agreed that this was a significant challenge in the immediate term and that building capacity to tackle it, in terms of numbers and skills, is a government priority.

The legislative programme is significant, but with 21 Bills over five years it does not appear over ambitious. Although not directly comparable, some 16 Scottish Government Bills are passed annually. There appears no reason why the necessary skills cannot be developed in the medium term.

Several people expressed caution at over-emphasising legislative capacity on its own. A greater concern was that the urge to legislate, sometimes without clarity on the problem it was meant to address or whether legislation was an effective vehicle, might drain capacity from other areas which may be better placed to deliver.

Responsibilities without resources

A further strain on capacity is the powers and responsibilities being devolved by the UK government without Welsh Government having asked for them. This includes Council Tax Benefit and the Social Fund. These are not only new areas of expertise to be developed but they also come with significantly reduced budgets and insufficient consideration to administrative costs. There is a danger that devolution is seen as a cost saving mechanism by the UK Government. Devolution of functions must be accompanied by the resources to deliver.

Strategy, policy and delivery

Welsh Government has developed its policy capacity significantly since the creation of the National Assembly in 1999. In pre-Assembly Welsh Office days there was little demand for home grown policy development. There are now civil servants experienced in developing policy and many have developed a strong track record in doing so. However, weaknesses remain.

Wales has far fewer people working on each policy area compared with Whitehall or Scotland. It may be more Welsh Government resource could be targeted at this, but it also demands a different approach to policy development and delivery. The depth of policy expertise within a small civil service will always be limited, making working with external partners even more important.

Improvements which would increase the capacity to deliver within reduced resources are:

- Central strategic resource, making connections across policy areas and providing clear underpinning direction.
- Hard analysis of existing and proposed policies to ensure they are robust, based on a thorough assessment of the problem and how to achieve desired outcomes.

- Value for money analysis of current and existing policies – providing financial analysis, in a way that the Treasury does in Whitehall, and blocking policies that do not meet the test.
- Understanding that implementation and delivery is core to policy development.
- Evaluation to be built into every major programme with reports made available for public scrutiny.
- External capacity to feed into policy and to provide robust external challenge based on expert analysis.

New policies that cannot pass these tests should not be progressed. There was also a call for existing policies to be interrogated to assess whether they are achieving the desired outcomes and represent value for money. Generalist policy makers need further support in developing skills but there was also a call for more statisticians, economists, scientists, social scientists and others with specialist and technical knowledge to feed into policy.

The First Minister has been clear that he does not want to see outsourcing of policy development, arguing it represents privatization of core civil service functions. In my conversations, there was concern at the weakness of wider policy networks in Wales to contribute to and challenge public policy. Similarly, whilst some teams work in close partnership with existing external policy networks there is still much room to strengthen this across the civil service. There was also support for using more of the various mechanisms available to bring more external experts into Welsh Government. However, there were real concerns expressed about impartiality should the core policy development function be outsourced as well as concerns that by-passing the civil service would fail to develop the much needed core capacity in the longer term.

The Welsh Government should set out its own positive approach to securing external expertise across strategy, policy and delivery. There is also a challenge for civil society to increase its capacity to contribute to and challenge public policy.

In autumn 2012 the Welsh Government put out a tender for a Public Policy Institute whose remit will underline these concerns. The tender document stated that the new Institute would be run by a Director with a small staff, and with an Advisory Board whose chair would be nominated by the Government.

In January 2013 a contract was awarded to the Wales Institute of Social and Economic Research, Data and Methods, co-ordinated by Cardiff University. The role of the Institute is envisaged as to:

- Provide short turn-around advice or think pieces on strategic issues, commissioned by Ministers, but not to commission substantive research projects of its own.
- Support the Cabinet in identifying a small number of strategic cross-cutting priorities to be addressed by its work.
- Support Ministers, at their request, to understand their research and analytical needs more widely.
- Sign-post to expert sources of advice, in Wales or internationally, and support Ministers in identifying the best way of engaging with this expertise.
- Make connections between insights and evidence across the Welsh Government's research activity.

It is envisaged that the Institute will deliver these objectives by:

- Building and mobilising a network of people and research organisations with vision and expertise, capable of responding rapidly and flexibly to Welsh Government requirements.

- Helping inform the commissioning of research by the Welsh Government's Knowledge and Analytical Service, and providing strategic advice on the interpretation of research findings, and on any gaps or duplication in Welsh Government research;
- Developing flexible ways of working to maximise impact, with less emphasis on written reports and more on communicating, influencing policy, getting the right people together and ensuring effective and relevant links are made.
- Identifying and developing synergies across different disciplines and policy areas.
- Building partnerships with HE institutions and Welsh, UK and international research institutes and think tanks;
- Deploying a small budget for events and targeted work commissions, managing a call-off contract for such commissions, and supplementing its budget if required.

The Welsh Government has recently developed *Delivering Results*, a set of principles on the development, integration and implementation of policy and building a sound business case for its delivery. This is aimed at addressing many of the concerns around policy capacity that have been expressed. The Welsh Government's commitment to introduce a Delivery Unit as well as funding the Institute of Public Policy should also go some way to addressing broader capacity concerns. It would be useful to have evaluation mechanisms for these initiatives.

Management and leadership

Whilst there are real pressures on resources within the civil service many feel there is still scope to significantly increase capacity through better management, leadership, training and development and reform of human resources systems including some which challenge the basic principles of the Home Civil Service. Increasing accountability was also highlighted through the conversations and in the literature (Lodge and Rogers, 2006).

A series of reforms have been introduced in recent years. Some have had a major impact on the structure of the organisation, including the merger of executive agencies and new regional offices. As Permanent Secretary, Gill Morgan reformed the management structure, bringing in a small group of senior civil servants (Director Generals) to form a tighter management team at the top of the organisation, work across departments and support negotiations with Whitehall. This brought plenty of critics. It has not produced the desired joined-up approach and high personnel turnover suggests improvements are needed. But there is support for the principle of a small team of very senior civil servants working closely with Cabinet to provide stronger strategic management and leadership as distinct from the role of departmental Directors. Making this effective will be a challenge for the new Permanent Secretary, Derek Jones, who took over in October 2012.

There have been calls for reforms that go much further than this, challenging whether some of the core principles of the Home Civil Service, which have been in place broadly since the mid-19th Century, are fit for public administration in the 21st Century – whether in Wales or across the UK (Davies, 2012; Institute of Government, 2012; Lodge and Rodgers, 2006; Straw, 2004). The public spending cuts are a driver for deeper reforms. Welsh Labour's 2011 manifesto included a commitment to:

“...review and seek realignment of the governance and performance of the Assembly Government civil service, better to reflect the developing requirements of devolution whilst remaining part of the Home Civil Service.”

The Welsh Government has developed a programme of renewal called *Fit for the Future* accompanied

by an *Action Plan*. This sets out the Welsh Government's distinct vision for reform, based on collaboration rather than competition. The Civil Service Reform Plan introduced by the UK Government will not apply to Welsh Government.

Fit for the Future builds on a series of reforms in recent years, particularly *Managing with Less*, the voluntary redundancy scheme and reducing the estate. It was initially focussed on human resources but has since become a vehicle of the broader renewal programme. It aims to tackle some core issues including:

- What the civil service should and shouldn't do given its smaller size.
- Driving better policy making and implementation.
- Strengthening civil service capabilities including improving talent, performance management and upgraded project, programme, financial and contract management skills.
- Introducing new management systems to support continuous improvement and innovation.
- Clarifying expectations of what it means to work for the Welsh Government.

In doing so, it aims to address many of the criticisms of the civil service system over the last decade and more.

Not everybody I spoke to was convinced that *Fit for the Future* would produce the real reform needed and yet it's vital to effective government in Wales that it does. *Fit for the Future* has been the subject of widespread consultation and discussion internally, but does not appear to have been released externally. There is no evidence of Wales-specific external research or challenge feeding into the reforms, unlike the Whitehall reforms. This could be an early role for the new Public Policy Institute. At the bare minimum, the Welsh Government should publish its reform programme to increase openness and accountability and to enable external input.

More dynamic and flexible approaches are needed that can target limited resources at priorities. There is widespread perception that the civil service is slow, bureaucratic and resistant to change. Such criticism is heard just as strongly internally as externally. The challenge is to make better use of existing human and financial resources. As one interviewee commented, "there's a great big untapped potential in the waste." A snap shot of where resources (staff time as well as financial resources) are currently targeted would enable proper assessment.

Some of the changes needed are not simply managerial but about challenging key principles underpinning today's civil service. For example, shifting away from a permanent civil service to appointments based on time limited contracts for specific posts and introducing much greater public accountability on areas of civil service responsibility as well as political accountability on civil service direction.

An area that needs attention is training and development. Many continental civil services have extensive programmes of training and development including France and Germany (Horton, 2011) and there have been calls for similar models to be considered in Wales. This would entail setting tough standards for civil servants before they were able to either enter or progress within the civil service. Depending on responsibility, this could vary from ability to present a clear written argument to understanding of broader Welsh society and institutions. This could take the form of collaboration across Universities and Colleges.

The Welsh Government and learning providers should explore the potential for establishing a civil

service school or college, based on the specific approach of the Welsh Government civil service.

Key tests for *Fit for the Future* are whether the First Minister and new Permanent Secretary can articulate publicly why civil service reform is needed, exactly what issues the programme is aiming to address, and how their alternative approach can enable civil servants to deliver outcomes for citizens in Wales which are not currently being achieved. Political leadership is needed, not in a way that compromises civil service impartiality, but to secure political support and accountability for some difficult reforms.

Whitehall

Whilst this paper is focussed on the Welsh Government, 84 per cent of civil servants in Wales fall under Whitehall Departments. Central government in Whitehall retains responsibility for a great deal of policy and services in Wales. Capacity of Whitehall departments to understand and respond to devolution is relatively low despite efforts at improvement (Welsh Affairs Committee, 2010). People I spoke to reported a mixed picture with some good working relationships. Some approaches work better than others with Agriculture, where there is a need for all four nations to develop common UK positions on European issues, being seen as a positive example. One person suggested that poor understanding of devolution has led to Bill teams in Whitehall simply devolving powers when it comes to Wales – giving Welsh Government considerable responsibilities with no real negotiation around appropriateness or sufficient resources to deliver.

Structure

Accountability within the Home Civil Service

Whilst civil servants in the Welsh Government are responsible for delivering the First Minister's programme for government and are led by the Permanent Secretary in Wales, they are also part of the British Home Civil Service which is ultimately led by the UK Prime Minister and the Head of UK Civil Service. This is also the case for the Scottish Government officials.

This presents clear issues around accountability which were highlighted in Welsh Labour's 2011 manifesto and which came to the fore following Gill Morgan's announcement that she would be standing down as Permanent Secretary. The appointment process for the Permanent Secretary is formally managed by the Cabinet Office and approved by the Civil Service Commission. Until the recent appointment of Derek Jones, the final approval had come for the Prime Minister. However, the Prime Minister has now delegated his role in making senior civil service appointments in the devolved administrations to the Head of the Civil Service, confirming that the only political input into senior Welsh civil service appointments should come from the First Minister. The First Minister had a significant role in the recruitment process for Derek Jones, maintaining political involvement in line with the civil service recruitment principles (Civil Service Commission, 2012).

This is in line with the process used to appoint the Permanent Secretary to the Scottish Executive, introduced following a recommendation in the Calman Commission's report. However, Parry argues that delegating the Prime Minister's role as political head of the civil service not to the First Ministers but to the Head of the UK civil service might create even less accountability to devolved governments (Parry 2012). A much stronger approach would be for the Prime Minister to delegate approval for the appointment of the new Permanent Secretary to the First Minister of Wales as political head of the Welsh Government. It is recommended that this is introduced in the future.

Separate Welsh Civil Service

Accountability has been central to many of the arguments for a separate Welsh civil service. These arguments were particularly strong in the early years of devolution (Cole et. al., 2003). Many doubted that it would be possible to retain a single civil service given differing policy direction under devolution, let alone survive different political parties in government across the UK.

In practice, the unified civil service has survived relatively unscathed. Some have argued it has in fact proved helpful in negotiating political differences (see Parry, 2012). Arguments that have always been used in support of a unified, including the shared labour market, still have considerable support. Interestingly, the SNP dropped calls for a separate civil service relatively early in their minority government. Instead, they appear to have used the Home Civil Service to their advantage (Parry, 2012).

Despite being formally part of the Home civil service, in practice the Welsh Government has considerable autonomy. Under the Welsh Ministerial Code, agreed by the First Minister as well as Prime Minister and passed by the National Assembly for Wales as well as Parliament:

“... civil servants are accountable to [Welsh] Ministers. They are in turn accountable to the National Assembly for Wales” (Civil Service Code, 2010).

The Constitutional Reform and Governance Act 2010 makes clear that officials must carry out duties for the assistance of the administration they work to, whatever the political complexion. Recruitment and pay structures are set by Welsh Government within broad recruitment principles with which few would disagree. Welsh Government is now undertaking a separate reform programme that will surely make distinctions clearer again. None of the civil servants I spoke to were in any doubt that they worked to the First Minister and Cabinet of the Welsh Government.

Parry has described separate civil services in Wales and Scotland as having become a ‘non-issue’ (Parry, 2012). That’s not quite true in Wales. A proposal for a separate civil service was included in Plaid Cymru’s 2011 manifesto. Some interviewees still felt it was vital in order to secure civil service loyalty to the Welsh Government Cabinet rather than to Whitehall.

There is no reason to think that the Welsh Government civil service could not adapt to being separated relatively easily and create mechanisms to protect areas that are valued including links across the labour market. The Northern Ireland Civil Service has been entirely independent since the 1920s. In practice it has worked in parallel with the British Home Civil Service, often mirroring or adapting Whitehall practices, in ways not a great deal differently from the current Welsh Government (Birrell, 2007). However, creating a separate civil service is not a priority issue and nor is it capable of addressing the substantive issues on capacity.

Unified Welsh Public Service

Arguments for a unified Welsh Public Service have been ongoing since the early days of devolution (Prosser, 2003). They have received a considerable degree of support and are being taken forward in practice. The Welsh Labour 2011 manifesto committed to “continue our work towards establishing a pan-Welsh Public Service development and improvement function.”

Arguments in favour are based on the development of a stronger workforce with the skills to achieve the improvements in public service delivery, to increase the pool of talent and to strengthen the link between policy and delivery. It would also bring a territorial focus and ethos to delivery of public services in Wales – the way we do things around here as distinct from over there. It is also linked

to the principle of collaboration rather than competition, marking a distinction with the approach taken by the UK government. This is in line with the mergers of executive agencies since devolution. Indeed, Wales has been cited as an example of a trend to reintegrate policy and delivery in civil services internationally (Lodge and Kalitowski, 2007).

This is being taken forward by the Welsh Government through *Working Together for Wales – A Strategic Framework for the Public Services in Wales*, the Local Government (Collaboration Measures) (Wales) Bill, the development of a national secondment scheme, and Public Services Management Wales as a training and development programme for leadership and management skills across the public sector in Wales (as well as relevant third and private sector bodies).

Some people envisaged the unified public service going further to form a single institution. Civil service structures that span central and local governments as well as wider public sector bodies are not unusual (Horton, 2011). However, some voiced concerns that such mergers would blur accountability. Others highlighted some of the intractable practical issues including merging pension schemes. Mergers of this nature are hugely resource intensive and can be destabilising.

The current approach which seeks to tap into the potential benefits of much greater collaborative working without the difficulties of actual merger appears to be a good way forward. However, a more structured and proactive secondment scheme is needed if it is to be effective, perhaps more formally linked to civil servants' career progression. Moving away from a permanent civil service to contract and time specific posts would also open opportunities to the third and private sectors.

Political control and co-ordination

Political control versus impartiality of the civil service, the relationships between politicians and civil servants, and the split in their responsibilities are ongoing sources of tension and perhaps always will be. They are not unique to Wales or the British civil service.

The main frustration for Ministers in Wales appears to be a lack of control over civil service performance, despite this being critical in achieving political priorities. Basic principles of civil service impartiality mean this is strictly out of bounds. I heard of several examples where Ministers had felt civil servants were not delivering against a clear direction (occasionally purposely) and yet they were unable to address this. There appears a dislocation, where leaders of an institution have no powers, responsibilities or accountability for its management and yet are directly accountable for overall delivery.

On the flip side, civil servants must serve the government of the day and this means by and large doing what Ministers say. If Ministers insist on introducing policies which are poorly thought through or only designed to grab headlines, so be it: the civil servant role is to support them to deliver. They are ill-equipped to defend themselves against Ministerial or public attack.

IPPR has described this as a "governance vacuum" in which the relative accountability of Ministers and civil servants is blurred, leading to a "ambiguity, confusion, weak leadership and buck-passing" (Lodge and Rogers, 2006). They call for clear accountability between Ministerial decisions and civil service operational delivery and financial management. These concerns around confused accountability and buck-passing were referred to by several interviewees. Andrew Davies has also called for much clearer accountability (Davies, 2012).

One response to this is to call for much greater political control and politicisation of the civil

service. An option is to increase the number and strengthen the role of Special Advisers. Despite concerns about quality and excessive focus on communications at the expense of policy, none of the interviewees were against the role of Special Adviser. They are valued in different ways by Ministers, civil servants and external groups. Political advisers are common in civil services across the world. However, whilst there are some good arguments for clarifying their role and even increasing their numbers to provide clearer strategic direction politically, it is difficult to see how this could tackle the more fundamental underlying issues.

Another alternative is to introduce a politically appointed senior civil service. Many civil services are far more politicized. In the US some 3,000 senior civil servants change with political administrations. Whilst there are advantages, there are also disadvantages, not least the tendency for cronyism. Most people thought the dangers would likely outweigh the advantages. Again, many people questioned whether this would address the underlying issues. It may move the tension between political leadership and an impartial civil service down a few grades without addressing it fundamentally. It is doubtful whether a political appointee leading and managing the civil service would be any more effective than a person appointed on merit.

In many European countries, Ministers can be directly appointed by the First Minister even if they are not elected members of the legislature. All Ministers are still accountable to the legislature. This has the advantage of being able to recruit people with the leadership and management skills to head large departments as Ministers, whether or not they are politicians. It has been tried with mixed success in the UK Government (Yong and Hazell, 2011). The proposal received some support from interviews. There is a great deal of talent in Wales outside government and the National Assembly is a particularly small legislature. However, most people felt breaking the democratic link would be problematic and unlikely to be popular.

Given the potential downfalls of civil service politicisation and the fact that there isn't a significant call for it, it would be preferable to find alternative ways to strengthen political control and accountability as well as civil service accountability.

The relationship between the First Minister and the new Permanent Secretary will be crucial in taking this agenda forward. The approval of the new Permanent Secretary's appointment by the First Minister would add clarity to accountability. It would state not only that the Permanent Secretary serves the Welsh Cabinet, but also that the First Minister is the political head of the civil service in Wales and should be accountable as such.

Clear political leadership in implementing *Fit for the Future* would also clarify political accountability. It would also be useful for the Permanent Secretary to be given an alternative title like Chief Executive of the Welsh Government (similar to New Zealand) to clarify that being head of the Welsh Government civil service is distinct from being a Permanent Secretary of a Whitehall Department (this would not require altering grades or create bigger institutional change).

Greater clarity should be developed to identify which decisions are made by Ministers and which by civil servants. This will demand greater transparency, including of the decision making process. Whilst there are many difficulties with the Freedom of Information Act, the principle of providing greater transparency remains crucial. Ministers and civil servants should be held to account publicly. Consideration should be given to Ministers chairing departmental boards in order to make the link between political direction and management stronger. Ministers and senior civil servants should be working together to deliver priorities.

Similarly, as political heads of the civil service, Ministers need to demonstrate clear leadership and be held to account for their role in tackling some of the major stumbling blocks in civil service reform. This includes shifting away from siloed working to integrated policy and delivery and much greater financial scrutiny.

The development of a much stronger Cabinet Office headed by a Director General is needed to drive clear strategic direction, integrated policy and improved delivery. A proper Treasury function is needed to oversee and challenge spend across government. The development of both will demand strong political leadership.

There is also scope for much stronger Private Offices to ensure Ministerial direction is understood and to challenge colleagues if briefings, communications and policy direction is not up to scratch. This might also release Special Advisers to focus on political direction as some reported too much time being taken on challenging these non-political issues.

Powers and scrutiny

This paper highlights some of the capacity issues that face the civil service in Wales. Some are specific to the Welsh situation, particularly its history of rapid change within its short lifespan. However, many are common to other parts of the British civil service and others are issues with which civil services across the world are grappling. This research has not highlighted reasons why the Welsh Government should not be able to adapt to further devolution. However, further devolution of powers needs to come with matching resources, including administrative resources.

Accountability has been highlighted as an issue, but this needs to be matched by more effective scrutiny. This includes capacity for scrutiny and challenge by civil society, academia and the media as well as the legislature.

Conclusions

The civil service, a complex and unique organisation, is an integral part of our democracy. Its effective operation is not just about delivering the priorities for the government of the day, it is also essential for the health of our public services, our private sector and civil society. It is one of the most important institutions in Wales. Identifying problems is relatively easy. It's much harder to devise ways of putting them right, as can be seen in the almost constant civil service reform programmes of the last 30 years.

The paper concludes that capacity is a real issue, including staff numbers and budgets given the public spending cuts that have accompanied increased responsibility. The Welsh Government civil service appears to have managed to adapt to this relatively well. However, other capacity could be released by reforms aimed at making our civil service system fit for demands of the 21st Century demands.

The paper makes the following proposals for civil service reform in Wales:

1. The First Minister should be formally recognised as the political head of the Welsh Government civil service and should approve future Permanent Secretary appointments.
2. The Head of the Welsh Government civil service should be given the title of Chief

Executive to highlight the distinction from being Permanent Secretary of a Whitehall Department and emphasise her/ his accountability for delivery.

3. Clear accountability should be developed around which decisions are Ministerial and which are civil service decisions.
4. A strong Cabinet Office led by a Director General should be developed to drive integrated strategy, policy and delivery.
5. A Treasury function should be developed in order to oversee and challenge spend across government and to drive value for money principles.
6. Welsh Government should implement a set of improvements to strategy, policy development and delivery (set out in the paper) to achieve more with reduced resources.
7. Welsh Government should publish *Fit for the Future* with a clear statement from the First Minister and Permanent Secretary as to why civil service reform is needed, what issues it is aiming to address and how this approach can enable the civil service to deliver better outcomes.
8. Welsh Government should set out its own positive approach to securing external expertise and challenge to support strategy, policy and delivery and ensure it has the capability to deliver.
9. Welsh Government and learning providers should explore the potential for establishing a civil service school or college.
10. Welsh Government should introduce a more proactive secondment scheme which is formally linked to progression within the civil service.

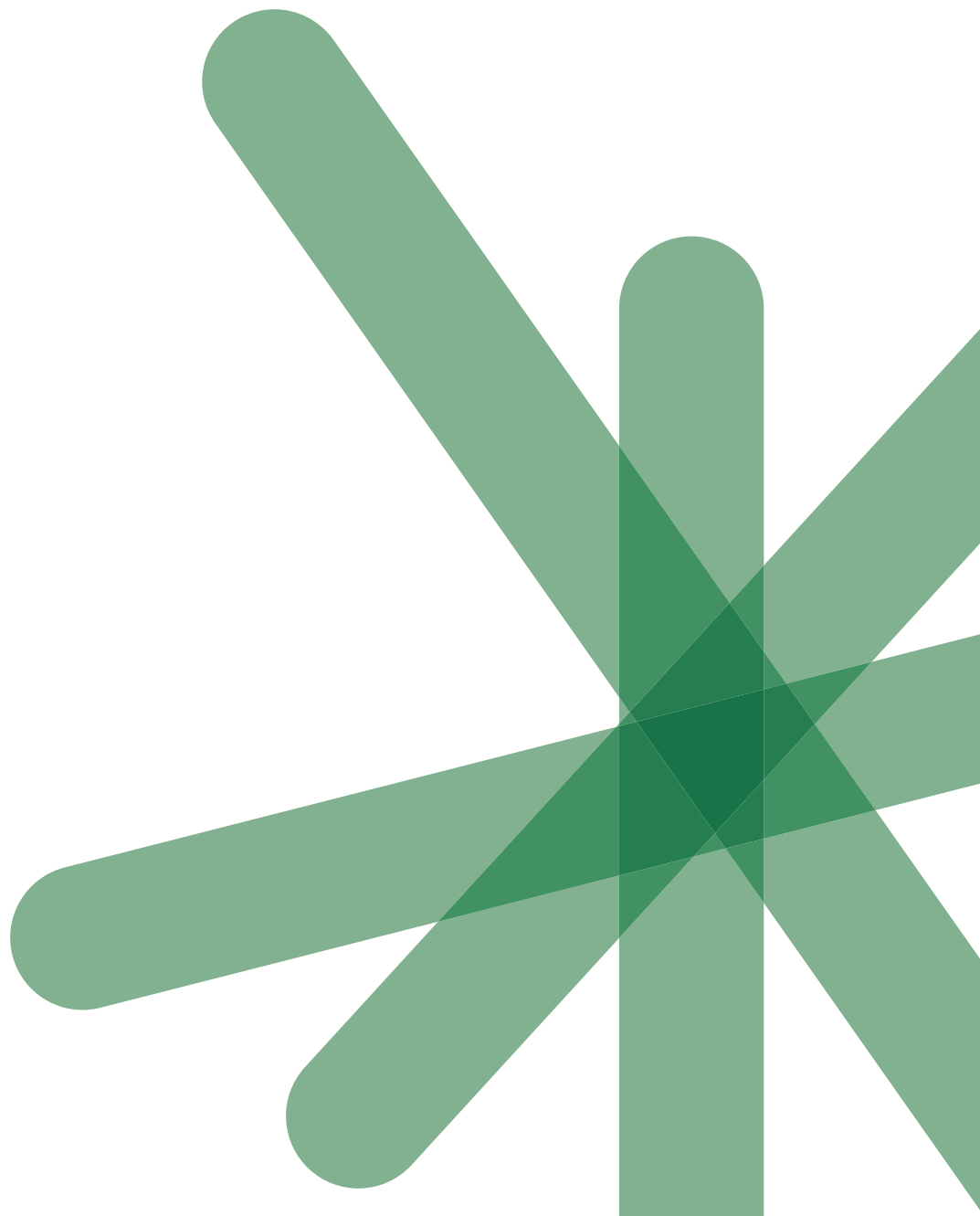
References

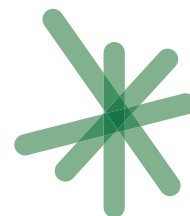
- Birrell, D., 'The Reform Agenda in the Northern Ireland Civil Service: The Influences of Parity, Integration, Devolution and Direct Rule', *Public Policy and Administration*, 22:275, 2007.
- Civil Service Code, (Wales), November 2010.
- Civil Service Commission, *Recruitment Principles*, April 2012
- Civil Service Statistics 2011, Office of National Statistics, October 2011
- Cole, Alistair, J. Barry Jones and Alan Storer, 'Inside the National Assembly for Wales: the Welsh Civil Service Under Devolution', *The Political Quarterly* 74: 223-232, 2003.
- Davies, Andrew, 'Tackling Wales' Sir Humphreys', *Click on Wales*, IWA, April 2012.
- Horton, S., 'Contrasting Anglo-American and Continental European civil service systems', in Massey, A. (Ed.), *International Handbook on Civil Service Systems*, Cheltenham, Glos: Edward Elgar p. 31 – 54, 2011.
- Welsh Labour Manifesto, *Standing up for Wales*, 2011.
- Lodge G. and Rogers B., *Whitehall's Black Box: accountability and performance in the senior civil service*, IPPR, 2006
- Lodge G. and Kalitowski S., *Innovations in Government: international perspectives on civil service reform*, 2007
- Parry, R., 'The Civil Service and Intergovernmental Relations in the Post-devolution UK', *The British Journal of Politics and International Relations*, Vol. 14. 285-302, 2012.
- Parry, R., 'The United Kingdom Civil Service: A Devolving System' in Massey, A. (Ed.), *International Handbook on Civil Service Systems*. Cheltenham, Glos: Edward Elgar p. 347-368, 2011.
- Prosser, P., *Development of a Welsh Public Service*, IWA, 2003.
- Riddell, P., *An open letter: two challenges and an opportunity*, Institute for Government, 2012.
- Straw E., *The Dead Generalist: Reforming the civil service and public services*, Demos, 2004.
- H.M. Government, *The Civil Service Reform Plan*, June 2012.
- Thomas, P., *Civil Service Reform: seven crucial tests for the new reform plan*, Institute for Government, 2012.
- Welsh Affairs Committee Eleventh Report: Wales and Whitehall*, March 2010.
- Welsh Government, *Consultation on Working Together for Wales, The Public Service Workforce*, Welsh Government Green Paper, May 2012.
- Yong B. and Hazell R., *Putting Goats Amongst the Wolves: appointing Ministers from outside Parliament*, The Constitution Unit, UCL, January 2011.

Chapter 4

Energy Policy and Powers

Stevie Upton





Energy Policy and Powers

Stevie Upton

Overview and key recommendations

The existing division of powers on energy is effectively an arbitrary one. The cut-off for planning and consenting powers currently stands at 50MW for onshore generation projects, 1MW for offshore projects and 132kV for sub-station and distribution networks. This introduces uncertainty over policy direction and inconsistency of process for developers. It also enables politicians of all colours to engage in a cross-border blame game over planning decisions, delays and policy failings. As a result, clarity over which body should be held accountable to the electorate is lacking. A further complication is that, with responsibility so comprehensively split between the UK and Welsh Governments, there is every chance that action by the former will cut across the latter's policy aspirations.

There are thus clear practical reasons for removing this limit. Moreover, Wales lacks a number of specific powers that have been devolved to the Scottish and Northern Ireland administrations. From a constitutional standpoint there is therefore also a strong case for further devolution.

There is however a degree of unease within the sector at the possibility of wholesale transfer of powers to the Welsh Government at this time. Forthcoming Energy Market Reform, the Energy Company Obligation and recent transfer of responsibility for nationally significant infrastructure projects to the Planning Inspectorate are all conspiring to create considerable uncertainty. Energy companies are understandably wary of adding a further dimension to this uncertainty.

Interested parties, including developers and NGOs have also voiced concerns at what they regard as a lack of strong leadership and clear direction by the Welsh Government. This in turn points to the need for capacity – in terms of both numbers and skills – to be sufficient to enable effective use of further powers. A number of stakeholders believe that these issues need to be prioritised so as to achieve more even with existing powers.

The timing of further devolution is clearly an important issue: it should be arranged so as to minimise any detrimental impact on the field.

Wales does not currently possess the necessary expertise to make all decisions in-house on the kind of energy consenting powers that exist in Scotland. Rather than going to the expense of developing such expertise it would make sense for Wales to continue to use the Planning Inspectorate system, with recommendations made to Welsh Ministers rather than DECC. This would help to minimise disruption, uncertainty and duplication of resources.

Buying in expertise in this way would also allow Welsh civil service capacity to be focused on policy delivery. Further powers will place additional responsibilities on Welsh Government civil servants, and local authority officers. The capacity implications of these responsibilities following further devolution would clearly need to be understood in advance. Attention should also be paid to how staff are deployed, to ensure that efficient use is made of existing and new capacity in light of any new arrangements.

Context for decisions on energy policy

Domestic energy policy is informed by agreements reached at an international level on both energy and sustainable development issues. In respect of the former, the International Energy Agency (IEA) exists to ensure the reliability and affordability of clean energy supply for its member countries. The IEA membership comprises twenty-eight of the OECD countries, including the United Kingdom. Founded in response to the oil crisis of 1973-74, today the IEA has four principal areas of focus:

1. Energy security – promoting diversity, efficiency and flexibility of supply.
2. Economic development – ensuring stability of supply and promoting free markets.
3. Environmental awareness – enhancing awareness of the options for tackling climate change.
4. Engagement – worldwide, with non-member countries.

The IEA's role is an analytical and advisory one. Its recommendations have no statutory bearing. Similarly consensus-based is the work of the United Nations in respect of sustainable development and climate change. A recent development in the UN's approach is the formal recognition, first in evidence at the Rio+20 summit in June 2012, of sub-national scales of government. The Network of Regional Governments for Sustainable Development operates as a networking, resource-sharing and advocacy group for some fifty sub-national governments, and works directly with the UN and European Union.

It is at the EU and UK levels that the principal statutory powers over energy policy are currently exerted. UK-level powers are discussed in greater detail below. As regards the powers of the EU, member states have committed to a reduction in greenhouse gases by 2020 of 20 per cent compared with 1990 levels. This is an interim target towards an objective of an 80-95 per cent reduction by 2050.

The 2007 Energy Policy for Europe identifies three reasons for placing these reduction targets at the heart of EU energy policy:

1. Because CO₂ emissions from energy account for 80 per cent of EU greenhouse gas emissions.
2. To limit Europe's exposure to oil and gas price volatility.
3. To stimulate technological innovation and jobs through a more competitive energy market.

Climate change, energy security and economic development have thus all been identified as issues of overarching importance. Together they constitute the context within which domestic energy policy is developed.

Extent of devolved powers

In terms of powers relating to energy supply, Wales holds the relevant planning and consenting powers for:

- Energy generation projects of up to 50MW onshore (dealt with under local authority planning powers).
- Offshore projects of 1MW or below in Welsh territorial waters.¹
- Sub-stations and distribution networks up to 132kV (again dealt with by the local planning authority).

In addition, oil and gas exploration and extraction must receive local planning permission, as well as a Department of Energy and Climate Change (DECC) licence.

The 50MW cut-off applying to onshore development consents in Wales does not apply in Scotland or Northern Ireland. The Welsh Government has called on the UK Government to devolve consenting powers for onshore energy generation projects up to 100MW in size.²

At present the Renewables Obligation, which places a mandatory requirement on UK electricity suppliers to source a specified proportion of the electricity supplied to customers from renewable sources, is administered in Scotland and Northern Ireland by the devolved administrations, but by DECC jointly for England and Wales. Companies' obligations are met through the presentation of Renewables Obligation Certificates (ROCs), with the administering bodies awarding varying numbers of ROCs per MWh depending on the renewables source.

Welsh Ministers argue that they should have powers equivalent to those in Scotland and Northern Ireland for setting these bands. However, the planned Electricity Market Reform (EMR) will, from 2017, introduce in its place a system of Feed-in Tariffs with Contracts for Difference. The details of how this will impact energy companies and the devolved administrations are not yet clear, although certain powers (such as the differential prioritisation possible under the ROC regime) could well be repatriated to Westminster.

Under Schedule 7 of the Government of Wales Act 2006, devolved powers specified in other fields with a bearing on energy generation include:

- Economic development (excluding electricity generation, transmission, distribution and supply, energy conservation except elements of energy efficiency, oil and gas and nuclear power).
- Highways.
- Town and country planning (excluding certain nationally significant infrastructure projects).

Whilst matters reserved to Westminster under Schedule 5 of the Scotland Act 1998 mirror those reserved in the field of economic development in Wales, a significant difference is that there are no reserved matters in the field of planning in Scotland.

In respect of energy demand, the Welsh Government is already in a position to implement policy with the dual goals of carbon emissions reduction and relief of fuel poverty. The Arbed scheme to improve energy efficiency of homes in regeneration areas, which has a threefold goal of reducing climate change, eradicating fuel poverty and boosting economic development and regeneration, and the Nest fuel poverty scheme bear witness to this.

Non-devolved powers

In England and Wales, the UK Government retains decision-making powers relating to energy supply over:

- Nationally significant infrastructure projects, defined in the Welsh context as encompassing:
 1. all offshore generation in UK waters;³
 2. offshore generation of more than 1MW in Welsh territorial waters³;
 3. projects of more than 50MW onshore.
- (In Scotland, the Scottish Government has devolved powers over onshore developments above 50MW.)
- Over-ground power lines above 132kV and cross-country power lines longer than 10 miles.
- Oil and gas exploration, extraction and pipelines.
- Nuclear power.

Additionally, for any offshore development within Welsh territorial waters consent must first be obtained from the Crown Estate Commissioners, since the Crown Estate retains ownership of most of the foreshore and the majority of the seabed within the 12 nautical mile territorial limit.

Prior to April 2012, nationally significant infrastructure projects (NSIPs) in England and Wales were determined by the Infrastructure Planning Commission. Following the latter's abolition, the Planning Inspectorate has assumed responsibility. The Inspectorate is required to make a recommendation to DECC, with a final decision being made by the Secretary of State.

As regards energy demand, one key area in which the UK Government retains powers at a UK-wide level is on energy company obligations for emissions reductions. At present companies are bound by obligations under the Carbon Emissions Reduction Target (CERT). This will be replaced from 2013 by the Energy Company Obligation (ECO)⁴. Targets are UK-wide, and there is no obligation on companies to commit to particular reductions (or associated spending) in each of the nations of the UK.

Emissions reduction targets for the UK as a whole are also a matter of UK Government responsibility. A commitment to delivering an 80 per cent reduction in emissions by 2050 was established in the 2008 Climate Change Act. Progress towards this is overseen by the Committee on Climate Change, which advises on the level of legally-binding carbon budgets for successive five-year periods.

Welsh Government policies, aspirations and targets

Whilst the target for emissions reductions of at least 80 per cent by 2050 is legally binding on the UK Government, the same is not the case for the Welsh Government. Reductions in Wales contribute to the UK target, but carbon budgets are monitored only for the UK as a whole and there is thus no binding requirement on each region to meet the reductions targets.

Nevertheless, in its 2009 One Wales: One Planet sustainable development strategy the Welsh Government set an annual reduction target for emissions of 3 per cent. This applies to greenhouse gas emissions in areas of devolved competence. The 2010 Climate Change Strategy reiterated this target and added a commitment to "at least a 40 per cent reduction in all emissions in Wales by 2020 on a 1990 baseline".

By contrast, Scottish Ministers have set stringent targets which, through the Climate Change (Scotland) Act 2009, are legally binding. Scottish emissions are required to be at least 80 per cent below the 1990 baseline by 2050, and at least 42 per cent below by 2020. (Scottish emissions reductions are also counted towards the UK-wide target.) In May 2012, the Northern Ireland Environment Minister gave a commitment to follow Scotland's lead in enshrining ambitious targets in legislation. According to one senior official in the Welsh Government this is a power also devolved to Wales under the Government of Wales Act 2006, but there appear to be no current plans to develop a Welsh Climate Change Act.

In its Electricity Generation Policy Statement the Scottish Government has set a target of delivering the equivalent of at least 100 per cent of gross electricity consumption from renewables by 2020. This latter target compares to a Welsh commitment to generating up to twice as much electricity from renewable sources in 2025 over 2010 levels, and to be able to meet most energy needs – whether heat, electricity or transport – from renewables by 2050⁵.

The Low Carbon Revolution energy policy statement also set out a detailed breakdown of potential generation capacity in Wales by source. This included a stated potential 4GW capacity for tidal stream/wave generation that has led some energy sector experts to question the extent of the Welsh Government's engagement with the commercial reality of what can be delivered. (A widely quoted figure for what is realistic in the delivery of tidal/wave energy at the UK level is 1.4GW.)

The latest Welsh Government policy on energy is contained in the 2012 Energy Wales: A Low Carbon Transition document. This reiterates the Welsh Government's ambition "to create a sustainable, low carbon economy for Wales". It sets out a threefold focus on i) leadership on energy, ii) maximising economic benefit, and iii) acting for Wales' long term energy future that encompasses:

- Improving the planning and consenting regime.
- Putting in place robust energy infrastructure, to include Grid and port improvements.
- Introducing a strategic approach across Government to creating a low carbon economy.
- Ensuring benefits for the Welsh economy and communities.
- A focus on energy projects with the greatest potential benefit (with particular attention to energy efficiency, marine renewables and Anglesey Energy Island).
- Reducing energy demand through efficiency improvements.

In his foreword to this latest statement, the First Minister makes clear his position on the current powers settlement:

"I will continue to highlight the fact that Wales is disadvantaged by UK energy policy and seek a fairer resolution to the current arrangements. In Wales, the energy market is not working effectively and we need clear long term support for key industries such as marine in Wales that is on a par with the rest of the UK."

Welsh civil service capacity

Responsibility for issues pertinent to energy matters in Wales is split between three principal Welsh Government Ministers:

- As of 2012, the First Minister is the lead for energy policy.
- The Minister for Environment and Sustainable Development's remit covers planning

- policy, micro-generation projects and energy efficiency/fuel poverty measures.
- The Department for Business, Enterprise, Technology and Science takes responsibility for the economic development and supply chain opportunities arising from energy projects.

In addition, the Minister for Local Government and Communities is responsible for transport matters relating to power facility developments, and the Minister for Education and Skills for associated skill development.

Within the Welsh civil service, internal estimates of capacity in the energy field are as follows:

Department for Environment and Sustainable Development

Approximately seven staff sit within the Energy Policy branch. This group works at a strategic level, developing an evidence base for policy decisions, liaising with UK Government on national issues such as Energy Market Reform, and acting as a statutory consultee for decisions on power generating facilities above 50MW.

A division of approximately nine works on energy efficiency, fuel poverty, micro-generation and community issues.

The Planning Division comprises approximately 40 staff. Responsibilities include cyclical review of Technical Advice Notes and Planning Policy Wales, and there are therefore periods where particularly substantial attention is paid to energy matters. Senior figures suggest that a “significant amount” of time is always devoted to energy, with an estimated one or two staff constantly working on energy and others operating on a case officer basis.

Department for Business, Enterprise, Technology and Science

The Energy and Environment group of BETS consists of approximately seventeen staff. Responsibilities include fostering sectoral development in the fields of energy generation and use, renewable energy, low carbon technologies and environmental goods and services.

In addition, the Energy and Environment Sector Panel of five industry experts was established in March 2011 to advise Government on sector needs and opportunities.

Staff within the Transport and Skills divisions are assigned at need to particular programmes with an energy dimension.

These estimates suggest a minimum of 35 officials, including planning officials, working on matters relating to energy policy at any one time. At present, the DECC website shows double this number working on energy policy within the department, excluding those specialising in nuclear power. (Also excluded from this number are those outside DECC with planning or economic development functions that have a bearing on energy policy.)

Capacity is not solely a matter of numbers, of course. Whilst one would not expect the Welsh Government to maintain as large a staff as would an administration with full energy powers, stakeholders highlighted concerns that the Welsh Government is less proactive than the Scottish Government in developing relationships with both DECC and developers. This has been attributed in part to split responsibility between departments for the environment, economy and education.

A formal programme is now underway to bring the strands of work in different departments

together. Three civil servants are currently establishing a common programme approach, which is intended to incorporate an agreed decision-making structure and regular reporting. The Director General for Sustainable Futures will act as the single lead for energy matters, accountable directly to the First Minister. If successful, this programme should address a number of concerns. Questions nevertheless remain about the ongoing implications of split delivery for accountability. It was also argued that energy policy is not yet sufficiently embedded as a core responsibility of specific civil servants, but rather tends to be, in one respondent's words, "tacked on".

Views on the status quo and further devolution of powers

The issues identified below in relation to the potential further devolution of powers relating to the field of energy, and the possible models for future distribution of powers, emerged from interviews conducted with fourteen respondents during July/August 2012.

Views were obtained from the Commissioner for Sustainable Futures, from the Welsh Local Government Association and Welsh Government, from academics in Cardiff University's Business School and School of Planning and Geography, from RenewableUK Cymru and from representatives of three major energy companies with renewables and non-renewables interests in Wales, from Friends of the Earth Cymru and from a former Welsh Government Minister.

Whilst, given time and resource constraints imposed on the study, this is a necessarily limited list, the issues highlighted here were recurring themes. This notwithstanding, no individual respondent should be assumed to have subscribed to any or all of the positions outlined below.

Welsh and UK Government positions on devolution of energy powers

In a 2011 letter to the Prime Minister, First Minister Carwyn Jones set out his Government's case for the devolution of powers for the consenting of energy projects above 50MW. He emphasised six principal reasons for devolving powers:

- Failure of a centralised approach to successfully move the UK towards its emissions reduction targets.
- The lack of a practical reason to treat Wales differently from the other devolved administrations.
- Greater likelihood of a Welsh administration being able to manage local objections, ensure community benefit and deliver greater accountability.
- Enhanced ability to integrate energy policy with (already devolved) planning policy.
- Rationalisation of a consenting process that is currently split between different administrations, leading to streamlining and improved ability to address the cumulative impact of developments.
- Greater consistency and credibility for investors.

However, the Wales Office response was in the negative:

"...the UK Government has not yet seen any compelling evidence that would support such a change".²

Stakeholder views on the status quo

Consensus among stakeholders and commentators on the energy powers debate was that it is principally a constitutional issue, rather than a question of what system would produce the most effective outcome. As one academic explained, the number of departments and associated policies inevitably involved in any energy policy decision means that no straightforward answer can be obtained on what would constitute the “best” settlement for Wales. Any further devolution of powers was therefore identified as being chiefly a matter of improving consistency between devolved settlements.

Energy company representatives were at pains to point out that they have no political stance on further devolution. Their foremost concern is to see a system that, to the greatest extent possible:

- Provides clarity and stability over time of process.
- Guarantees dependable timescales for decision-making.
- Provides the company with a favourable result.

Energy companies always have to work with a number of bodies to obtain the full range of necessary consents and licences. This would be no different were further powers to be devolved. Thus the operation of different regimes for different scales of project, with an associated need for engagement with different consenting/licencing bodies, was described by representatives as not necessarily problematic in and of itself. Indeed, in order to achieve a favourable result, energy companies have entered applications both above and below the 50MW limit according to which system they deemed more likely to approve development.

Where companies do see unnecessary complexity is in the separate applications necessary for sites above 50MW (made through the Planning Inspectorate) and associated substation development (made to the local planning authority). In England, the latter is submitted to the Planning Inspectorate as associated development. Other issues causing complaint among energy companies can be attributed either to necessarily UK-level issues – notably the Grid – or to issues over which the Welsh Government already has devolved powers – especially in relation to the planning system.

Concerns were raised over the often highly politicised nature of decisions made at a local level on infrastructure projects. By contrast, the Planning Inspectorate was judged to operate a more impartial system. As one commentator noted, that there is a perception of partiality is significant regardless of the reality. Company representatives spoke of a window of opportunity for securing development in Wales and made it clear that uncertainty – whether from planning delays resulting from public inquiries or from the implementation of a new policy regime – is likely to adversely affect investment decisions.

A further concern, raised by a clear majority of respondents, regards capacity within local authorities and the Welsh Government. Energy sector stakeholders and commentators alike compared Wales unfavourably with Scotland in terms of developing and delivering on detailed policy and targets, removing obstructions in the planning system, and proactively engaging with and pursuing investment from the energy companies. They suggested that capacity, in terms both of numbers of staff employed to work on energy and of their skills, played a part in this. For those attempting to engage with the Welsh Government, a lack of clarity about individual officers’ responsibilities also appears to be hindering efforts to build relationships.

Questions were also raised by all non-Government respondents about the extent of Welsh Government leadership on energy matters. Specifically:

- Welsh energy policy statements were deemed to be less comprehensive than their Scottish equivalents (although it was acknowledged that Scotland has a longer history of engagement with energy issues and has a First Minister with a background in energy economics).
- Local authorities, the environmental bodies and the Welsh Government are not regarded as singing from the same hymn sheet.
- There appears to be little evidence of the Welsh Government having used its influence to drive through applications on renewable energy developments under 50MW, or to amend elements of the regulatory regime that present a barrier to development.
- The planning system is agreed to be a significant barrier to development, but existing powers have not yet been used to resolve this.
- Some respondents argue that powers which could be used to increase energy efficiency and reduce demand are not being used in a sufficiently concerted manner.

Concluding that he would feel more confident in gaining consent if an application went to appeal in Scotland than in Wales, one developer summed up the current situation thus:

“It is clear that the Scottish Government is pro-wind and takes an active leadership role in terms of making things happen in Scotland, rather than the more arm’s length approach we have seen in Wales over recent years.”

The as yet unrealised potential in respect of policy on demand reduction was addressed by a number of academic and energy company respondents. Its significance relates firstly to its possible contribution to emissions targets (estimated to be sufficient to enable Wales to achieve a 40% reduction without recourse to supply-side changes). Secondly, the economic development payback from an energy efficiency focus (in terms of job creation, skills development and fuel poverty reduction) is sizeable.

This is not a case of either-or: respondents were by no means arguing that a focus on energy demand is an alternative to addressing the nature of supply. Their point was rather that without efforts to influence consumption patterns environmental gains will be limited. Moreover, the fact that existing powers in respect of energy demand have not, to date, been fully utilised led respondents to question the extent of political will and leadership on energy in Wales.

Stakeholder views on devolution of further powers

Respondents identified a number of potential benefits and dis-benefits of further devolution of energy powers.

For	Against
Greater consistency in the consenting process.	Energy companies envisage increased uncertainty arising from any changes to the consenting process. (Whether or not this would prove to be the case, this perception is significant.)
Given a high degree of political stability, Wales could become the most stable part of the UK in which to invest.	Wales is already subject to uncertainty associated with the new Planning Inspectorate process, Energy Market Reform and the Energy Company Obligation. Energy companies require greater certainty, not further uncertainty.
Wales' "gratuitously complex" (and apparently arbitrary) energy powers settlement would be simplified.	The Welsh Government has not set out a sufficiently detailed roadmap of how it would act differently from UK Government. Increased uncertainty is not balanced by evidence of clear gain.
Reduced opportunity for politicians to engage in a cross-border blame game over delays/policy failings.	Lack of clear leadership within the Welsh Government raises questions about coherence of approach within Wales.
The recent distribution of new renewable and non-renewable generating capacity points to the UK Government treating England as the location for next generation technologies, with Wales housing the old technologies that will "keep the lights on" in the interim.	A current lack of proactive engagement by the Welsh Government, with DECC and developers, raises questions about capacity in Wales.
The requirement on Welsh politicians to deal with Welsh energy issues would help to address the current accountability gap.	Increased powers would require new skills of local authority and Welsh Government officers. This is a significant challenge that would demand time and resources.
Potential to improve policy coherence and better address local needs. Reduced probability of UK policy cutting across Welsh Government aspirations.	Greater powers alone will not ensure better outcomes. Powers for developments under 50MW have not been used to their full potential. Capacity, leadership and a focus on delivery must also be in place.
Enhanced relationship-building potential between Welsh Government and energy companies.	The decision-making process could potentially be too political, especially if powers are held within the Welsh Government and not at arm's length.
From a constitutional standpoint, Wales would achieve parity with the other devolved administrations.	Any devolution of energy powers brings a risk of fragmentation of policy, with implications for "keeping the lights on".

In spite of an openness in principle to the Welsh Government holding greater power, in practice there was considerable scepticism.

As regards devolution of Crown Estate responsibilities, developers view the existing regime as sufficiently well disposed towards their needs. The Welsh Government and Crown Estate are seen as equally supportive. Developments are progressing as fast as technology and finances will allow. While energy companies wish to deal with as few consenting bodies as possible, given that some potential sites span English and Welsh territorial waters there is an ongoing likelihood of needing to

work with the Crown Estate, regardless of any future Welsh settlement. By far the greater barriers to development are encountered onshore.

Further devolution of consenting powers raises particular concerns:

- Powers alone will not deliver a new approach to energy policy. Does the necessary political leadership exist to drive forward a radically different agenda in Wales? No detail has been released on the form of and schedule for such an approach. (And if a different agenda is not planned, can there be said to be a policy, as distinct from a constitutional, case for further devolution?)
- Considerable demands would be placed on capacity, in both the Welsh Government and local authorities. The WLGA has emphasised an existing capacity deficit in relation to the sustainable development challenge. The scale of the challenge must not be underestimated.
- Energy companies are already facing considerable uncertainty. Investment funds and timescales are limited and adding to the uncertainty risks discouraging investment in Wales.

However, this is not to deny that the status quo remains problematic. Several respondents raised the point that decision-making and delivery are currently divorced from one another in Wales, making development of a coherent approach difficult. Furthermore, without full powers it is difficult to engage in a sophisticated debate about what could or should be the future direction on energy for Wales. As well as encouraging people to play politics across the boundary between UK and Welsh Government responsibilities, the split-powers model introduces a democratic deficit. If it is unclear who has made a particular decision, it cannot be evident who should be held to account.

Future arrangements

Respondents were divided as to whether it is important first to devolve powers (with confidence in the administration expected to grow once Ministers are able – and required – to develop Wales-specific policy) or whether it is necessary to establish stronger leadership before devolving further powers (without which uncertainty might be expected to undermine confidence). However, as many of them noted, the complexity of the energy policy field makes it virtually impossible to make a decision on the distribution of powers on anything other than purely constitutional grounds. Given the likelihood that the UK's Changing Union project, for which this working paper has been prepared, will recommend the adoption of a reserved powers model for Wales, there are a number of specific considerations in the field of energy that should not be overlooked.

Firstly, a majority of respondents were agreed that Wales lacks the necessary expertise to make all consent decisions in-house, as happens in Scotland, and that the time and resources required to develop them are prohibitive. Should energy powers be devolved, ongoing use of the existing Planning Inspectorate system is therefore recommended. This would reduce disruption and uncertainty, use existing expertise and minimise duplication of resources. It would also serve to overcome concerns associated with local planning authority consenting. Setting the recommendation process at arm's length would require confidence on the part of the Welsh Government, and the Inspectorate would have to be prepared to work within differing policy contexts.

The Inspectorate's recommendations could be made to Welsh Ministers or, as one respondent suggested, to a consortium comprising local authority and Welsh/UK Government representatives. This model of cross-tier decision-making was put forward as a means of ensuring that all viewpoints

receive due consideration. Certainly, if powers are devolved, Wales has an opportunity to radically rethink its decision-making model, and should not be bound to adopt an existing approach.

Secondly, coordination between the timing of further devolution and of changes in the UK-wide regime would be beneficial. Without this, devolution risks adding to the uncertainty for developers already engendered by Electricity Market Reform. Any change that makes Wales a less attractive location for investment than its neighbours should be avoided. Such coordination could prove problematic should there be a wholesale transition to a reserved powers model.

Thirdly, from a purely policy (as opposed to constitutional) standpoint the balance of stakeholder views points to the need to increase capacity and develop a sharper focus on delivery prior to any new power settlement. Much could be done with existing powers that would increase confidence in the ability of the Welsh Government to manage further powers as and when they are devolved. To achieve its stated objectives on energy, it is recommended that the Welsh Government should:

- Set out a more detailed agenda on energy, to include an action plan with specific targets and timelines, and with greater weight given to energy efficiency and demand reduction.
- Give stronger leadership and clearer direction to local authorities and the new single environmental body.
- Engage more proactively, and in a consistent manner, with UK Government and with the energy companies.
- Create a detailed roadmap of energy-related investment opportunities.
- Ensure that the Planning White Paper fully addresses concerns over local planning authority involvement in the consenting process.

Consider how local authorities could be better encouraged to use their borrowing powers for renewable energy projects and energy efficiency programmes.

The need for clearer leadership and a sharper focus on delivery implicit in these recommendations was a recurrent theme among respondents.

Fourthly, due consideration should be given to the implications for capacity of the devolution of further powers. Concerns have been raised about the current distribution of responsibilities among staff, levels of expertise, and numbers of staff focusing on energy policy within the Welsh Government and local authorities. Further powers will increase the pressures in these areas. Although it is hard to predict with any precision what specific capacity requirements will be, one might usefully look to Scotland for evidence of what would be required. Attention should be paid not only to absolute numbers of staff, but also to the way in which they are deployed. Inefficiencies resulting from split responsibilities between departments should be avoided wherever possible.

Above all, local authority and government officials and departments will need to be responsive. Officers should be given the space to keep up to date with developments in what is a fast-changing field. A distinction between the routine roles that necessarily underpin delivery and the specialist, often technical, roles that facilitate innovation would seem to be a useful one. Proactive engagement with UK Government and the energy companies should follow in part from the availability of sufficient capacity, but most particularly will be driven by strong leadership and clear direction.

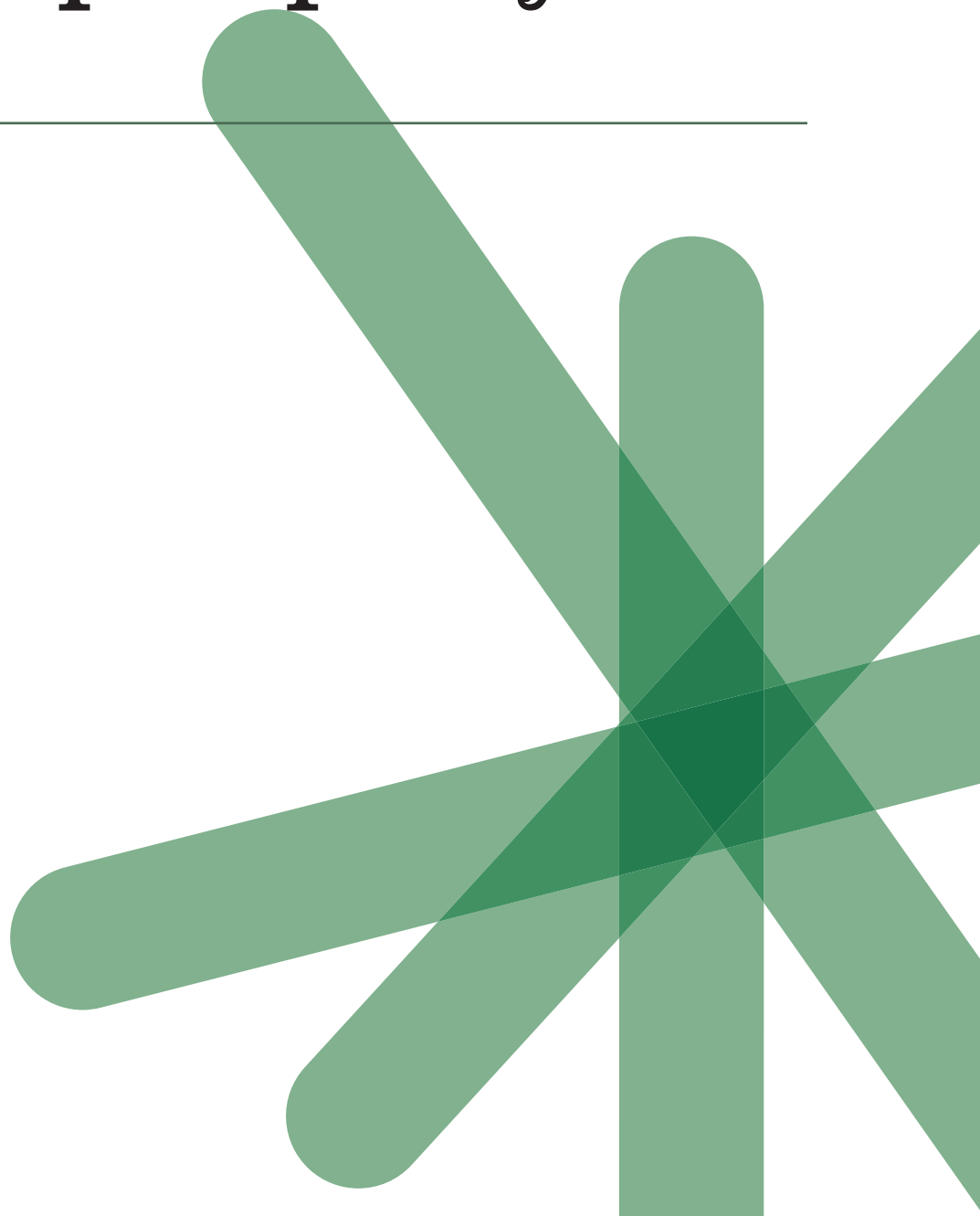
Notes

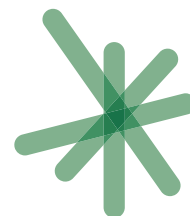
- 1 Note that the Gwynt y Mor wind farm off Wales' northern coast will have a capacity of 576MW, while the Bristol Channel Atlantic array, planned under Round 3 of the Crown Estate leasing programme, could total 1500MW.
- 2 Ministerial correspondence regarding the devolution of powers over energy consents (Docs 4, 5 and 6), accessed 29 August 2012. <http://wales.gov.uk/publications/accessinfo/disclogs/dr2012/julsep/enviro1/dlenv209/?lang=en>.
- 3 Projects of 1-100MW are determined by the Marine Management Organisation. For projects above 100MW, the DECC Secretary of State makes a final decision based on a recommendation to grant or refuse from the Planning Inspectorate.
- 4 ECO will form part of the Green Deal, which will also include measures to encourage energy efficiency among consumers. A Government-financed system will eliminate the need for consumers to pay upfront for the installation of energy efficiency measures.
- 5 A Low Carbon Revolution – The Welsh Assembly Government Energy Policy Statement, 2010.

Chapter 5

The powers Wales needs to develop an integrated transport policy

Stuart Cole





The powers Wales needs to develop an integrated transport policy

Stuart Cole

Overview and main recommendations

The aim of transport policy should be an integrated transport system that is socially inclusive and environmentally sustainable, promotes economic development, allows good access to new developments, and facilitates connections between different modes of transport. Public transport can be delivered and coordinated at a local or regional operational level by government agencies or by contractors. However, full integration requires strategic oversight by a single policy and budgetary authority at the all-Wales level.

At present, the Welsh Government's powers extend only to road transport. Limited further powers cover road and rail transport via links to the role of local authorities, including bus service timetabling and subsidies, and provision to invest in railway infrastructure. The Wales and Borders rail franchise is with the Department for Transport in London, with the Welsh Government as cosignatories. Routes running from Wales to Bristol and Birmingham are operated under London franchises. At the local level meanwhile fragmentation of responsibility has severely compromised integration: for example, coordination between train and bus timetables is poor.

Rectifying this situation will require transfer of the powers that enable integration to the Welsh Government. These include responsibility for:

- Public transport policy.
- Rail and bus industry regulation.
- Rail investment (with the operational and financial interface between the Welsh Government and Network Rail set out in statute and mirroring the current Department for Transport - Network Rail position).
- Contractual arrangements for English train operating companies' operations in Wales.
- Powers currently held by the Traffic Commissioners.

Responsibility for investment is of great importance to the future of Wales' rail infrastructure. Under the current arrangement, Network Rail's five-year plan prioritises projects on an England-and-Wales basis. The recent (January 2013) publication of Network Rail's Wales Route (Division) Strategic Plan enables the expenditure priorities to be shown. In turn this indicates whether projects in England are being prioritised at the expense of those in Wales. It also shows how Department for Transport funding is being prioritised between Wales and England. However, establishing this new planning process does not preclude Wales being awarded responsibility for the Network Rail function. If this were achieved

it would guarantee prioritisation of Welsh infrastructure development, within the available budget. The success of such a settlement would, of course, depend on concomitant transfer of finances. On a population basis, this would provide Wales with greater resources than are now available.

Three major cross-border rail franchises (West Coast Main Line, Great Western and Cross Country) are more problematic as regards devolution of responsibility. The Welsh Government currently holds the powers over franchises operating between locations within Wales - over the Marcher Line which has the role of connecting the Welsh east west routes; and over the Carmarthen to Manchester route which is a key service within Wales and the Marches. This occurs without damaging the cross-border network since it is in the rail companies' interests to ensure coordination with other operators' services. However, the situation is more complicated where services operate on both sides of the border, though primarily in England. Splitting a franchise so that the Welsh Government held responsibility for the Welsh portion of a joint franchise (such as from Newport westwards on the Great Western mainline and similar sections on the other two franchises referred to above), with the UK Government responsible for the English portion, could potentially end in politicisation at the interface between responsibilities. However, without some statutory powers, the Welsh Government would be left without a say over many rail services in Wales.

One solution would be to have a joint signatory position for the three intercity long distance franchises in so far as they provide rail passenger services into and out of Wales. For example the Welsh Government should not be a joint party to the whole of the West Coast Main Line franchise but should in relation to the North Wales Coast Line have a more powerful position than merely being a consultee. This would enable Welsh Government to ensure that all services in Wales were subject to their influence.

Other aspects of transport policy that need to be devolved are those relating to vehicle safety and licensing, as carried out by the Vehicle and Operator Services Agency (which oversees vehicle licensing) and the Driver and Vehicle Licensing Agency (DVLA). Their largely technical work relies on specialist expertise and may continue to be carried out in Swansea and Leeds / Warrington. However, the setting of priorities in their work has to be a devolved matter since there is a need for Welsh interests to be put first. Their role in performance monitoring and in the achievement of Welsh Government policies in relation to integrated transport through the Traffic Commissioner is a key role. One example would be the monitoring of quality bus partnerships and contracts and in any move towards franchising bus services within bus industry regulation. Consequently, while their technical work should continue at the existing locations on an agency basis (with a separate agency contract with the Welsh Government), their work in Wales should be devolved so that Wales has the powers to determine appropriate penalties and priorities. Responsibility for these powers would be vested in a Traffic Commissioner for Wales, appointed by the Welsh Government.

The role of the freight forwarder means that integration between different modes of transport is already good in the freight industry. Nevertheless, it would be sensible to devolve ports policy to Wales as, without this, the Welsh Government lacks the ability to invest in freight facilities that would relieve pressure on the rail and road networks. Safety powers and assisting in the implementation of government policies covering freight operations fall under the purview of the Transport Commissioner, and would therefore also need to be transferred.

Current proposals for the development and possible purchase of Cardiff Wales International Airport by the Welsh Government illustrate the case for devolving powers on airport development and air passenger duty to Wales or at least sharing these with the UK Government.

An important consideration should these transport powers be devolved is the associated impact on capacity. Civil service capacity requirements in this field are a matter of skills more than numbers. In the past, specialist teams have been established quickly and to good effect, as for instance in the case of the rail electrification evaluation team. These teams have comprised both internal and external members. In addition to this short-term, task-specific capacity, in the event of further devolution of powers the recruitment of permanent specialist civil servants should be given serious consideration.

Case for an integrated transport policy

There is a generally accepted view that over the next 30 to 40 years an integrated transport policy must provide the solution to the energy and pollution consequences of the motorcar. The Welsh Government, both directly and by commissioning studies and reviews, has made strides towards the recognition of our transport problems and has identified some possible solutions. These include the extension of transport concessions, extension of Transport Grant allocation to cover a three-year period, and increased use of transport telematics.

There is a clear recognition that the urban journey-to-work movement is where the most dramatic changes must occur. This does not mean that other aspects of policy, such as greater inclusivity (with a focus on accessibility rather than simply mobility) should not also be vigorously pursued. However, without addressing the journey-to-work problem, it is unlikely that other aspects will achieve or deliver overall aspirations.

Changes in the powers of the Welsh Government and the National Assembly should be sought on the basis of a clear rationale. In the case of transport much of the responsibility already lies with national or local government institutions. There are some developments for which powers already exist, for example the Joint Transport Authorities provided for in the 2006 Transport (Wales) Act) but which have not yet been implemented, and local authority consortia remain in existence.

Logistics and supply chain management facilitate operational freight integration to achieve commercial objectives and the most efficient means of moving goods. However, there is no similar framework on the passenger side where there are four policy and operational aspects to integrate.

The key objective of integrated transport for Wales is to provide for a split between accessible and affordable modes of travel which are both sustainable and become the preferred modes of travel. However, Wales can be divided into five regions, each of which has a variety of spatial characteristics:

1. Densely populated urban areas, including Cardiff, Newport, Merthyr, Ebbw Vale, Swansea, and Wrexham.
2. Major towns such as Neath, Port Talbot, Llanelli, Aberystwyth, and Llandudno.
3. Affluent rural areas often referred to as 'urban shadow' territories.
4. Important rural centres such as Carmarthen, Haverfordwest, Newcastle Emlyn, Llandeilo, Brecon, Newtown, Ruthin, and Denbigh.
5. Deep rural Wales, for example Ceredigion, Powys, and Gwynedd.

Each of these regions has particular transport needs whose aspirations for transport service provision need to be explicitly stated so that a blueprint can be developed with appropriate targets for service provision by each transport mode.

The primary objective of any transport policy given the current state of the economy has to be

Wales' ability to trade, remain competitive, generate jobs and increase social and economic inclusion. The last is dependent on successful achievement of the first three. So the order of priority for Wales is as follows:

- An efficient and effective transport network to make us internationally competitive.
- Urban congestion solutions;
- Easy and affordable access to jobs and services by car, bus and rail services particularly from low-income communities and rural areas.

Achieving these will require a revolutionary change in public transport provision.

Welsh Government's policy objectives

The Transport Minister's Statement (December 2011) indicated a desire to achieve six primary objectives which integrated transport systems will play an important role in achieving:

1. **Mobility – improvements for deprived, low-income, communities** particularly in relation to improved access to employment, health and education and affordable retailing. The economics of large supermarkets brings economies of scale and thus in general lower prices along with a wider range of food and clothing as compared with locally owned shops or even small neighbourhood stores within a larger procurement and distribution network.
2. **An efficient and effective transport network within Wales** to enhance inter-area economic activity.
3. **International connectivity** to enable Wales to compete in an increasingly contestable market. This includes connections for our exports of food and manufactured products and for inbound tourism to and from England's large conurbations, other European Union member states and North America and the Far East. All are important markets thus making international links a key policy objective. These links must be efficient in terms of journey times and the reliability of the network so as to enable producers to achieve their own *just-in-time* logistics targets.
4. **Reduction in urban congestion** so that efficiency and economic growth in urban economic powerhouses efficiency and economic growth are not restricted by congested roads nor indeed the perception of congestion.
5. **Access in rural areas** with new radically changed means of providing public transport.
6. **Healthy and more sustainable** travel choices.

Within our major towns and cities these objectives can be translated into more detailed steps to delivery.

The Cardiff Public Transport Hub should have a fully integrated bus, car, cycle and rail system. This and requires a high quality interchange to rank (though on a lesser scale) with Kings Cross, London and Amsterdam Bijlmer. The bus element would be best sited at the front of Cardiff's Central railway station and developed commercially as a state of the art facility. There is also a need to link it via an underpass to the proposed developments on Callaghan Square to create a St David's 3 business district.

Swansea's new bus station is regarded as one of the better designs in Europe, providing full integration of all local bus services, regional and national coach services, taxis and car pick up/drop off facilities. Swansea also has a refurbished new-look railway station and linking the two (unfortunately a mile apart) is a high frequency set of bus routes. While the Metro is well signposted, the many-other-routes stop is not so well signposted and the full departure screen is not sufficiently in view. These minor changes at the railway station would significantly improve interchange information between high quality facilities not least the electric train service in 2018.

The redesign of Merthyr bus flows and bus station location has to make for ease of modal interchange and serve the retail area and town centre redevelopment plans. Easy interchange of bus-rail and bus-bus with the retailing and business district is found in Rhyl, Aberystwyth, Carmarthen and Brecon giving good practice examples for typically sized Welsh towns.

Developing an integrated transport policy

Development of an integrated transport policy requires examination of four relationships:

1. **Integration within and between different types of transport** - better and easier interchange between car, bus, and rail with better information on services and availability of integrated tickets. The same applies between public and private transport, between motorised and non-motorised modes (walking, cycling), and within public transport.
2. **Integration with the environment** - considering the effect of transport policies on the environment and selecting the most environmentally friendly solution whenever possible.
3. **Integration with land use planning** - to reduce the need for travel and to ensure new developments can be reached by public transport.
4. **Integration with policies on social welfare, education, health and wealth-creation** so that cross-cutting policies on issues such as social inclusion, school travel, cycling and walking, and the profitability of business work together rather than against each other.

The preferred structure to achieve such integration nationally, regionally or locally has three prerequisites:

- A single strategic policy and budgetary authority at the all-Wales national level to co-ordinate body fall modes of public transport.
- Co-ordinating bodies at operational level to achieve seamless interchange between modes, within modes, and between modes and land uses. This relates to physical interface and the provision of through ticketing.

While services at the operational level may be provided by contractors, strategic provision must involve a single body at the national (Welsh) level carrying out both functions. The elements of such a system exist in other member states of the European Union where high investment, together with policies for the co-ordination of services, fares and infrastructure developments, may be found in major centres as well as in local areas.

The Regional Councils of France have transport as a major policy issue with their responsibility covering local railway services (along with SNCF) and bus operations in the municipalities. In

Sweden regional public transport bodies run local bus and rail services in a country with extensive rural areas, a small population (8 million) and a concentration of people in a small part of the total land area. The Netherlands has a national ticketing system for local public transport (the Nationale Strippenkaart) and a national railway service but with the provinces being responsible for stations and for all bus, rail and train-taxi services which may be directly operated by a government owned body or by a private company franchised by the appropriate local or national authority. The State-owned Railned retains track operations. In Austria, the Land (equivalent to the consortia areas) has responsibility within its area for all local public transport and land use planning. This is linked into a national policy for rail services. Joint ticketing exists on all services within the Land. Austrian Railways (a public sector body) retain operational control and ownership of the track.

The integrated transport policy for Wales recommended here follow all of these. In addition it is proposed that one national and four regional Joint Transport Authorities should together control finance, policy and service provision (though not necessarily all operations). The regional authorities are based on the geographical areas of the current transport consortia and county council groupings.

The elements needed to develop an integrated passenger transport strategy are:

- Road investment.
- Rail investment – infrastructure and rolling stock.
- Bus investment – terminals and vehicles.
- Public transport interchanges.
- Investment in walking and cycling facilities.
- Physical and fiscal traffic management.
- Public transport fare levels.
- Public transport service level –contractual payments.

The potential for giving greater emphasis transfer to public transport over the motorcar varies between the five urban and rural areas delineated above. However the differences can be narrowed though a radical new approach to rural bus services. Regular-interval fixed-timetable operations suit urban areas with high patronage levels but have only limited value in rural areas. The Bwcabus computer/satellite/GPS and flexible scheduling bus system responds to demand and has enabled a radical and successful approach to rural public transport, as measured by increased patronage.

Generally there is a need for improvements in the public transport system before car users can be persuaded to change, and non-car owners are able, to make reasonably timed and priced journeys.

Its current powers only give the Welsh Government a national role in roads, with some opportunities integrate road and rail transport through its links with local authorities. This severely limits its ability to balance investment between the best solutions to transport problems.

The 4I's concept identifies the following as the integration equation for passenger transport:

$$\text{Information} + \text{Interchange} + \text{Investment} = \text{Integration}$$

The absence of any of these elements will hinder or even prevent the development of an integrated passenger transport system. Both the rationale for and the means to the delivery of, integrated public transport, together with an explanation of competitive franchising, are to be found in Appendix 1.

Current Welsh transport powers

These are derived from Government of Wales Act 1997, the Railways Act 2005, and the Transport (Wales) Act 2006. They embrace:

Bus

- Bus service subsidy and contract payment levels.
- Bus service frequencies, routes, shared between bus companies (commercial routes) and county councils (tendered services).
- User group representation - Public Transport Users' Committee for Wales and Bus Users UK Cymru Wales (semi autonomous).

Rail

- Rail passenger service levels and contractual arrangements for the Wales and Borders franchise. The current joint franchise is contractually let by the Department for Transport but should be converted to a Welsh Government-only franchise.
- Under the Transport (Wales) Act 2006 the Welsh Government may procure any form of public transport facility. It is able to do this on its own account or jointly with Network Rail. So far rail schemes have been on a relatively small scale, for example track doubling between Gowerton and Llanelli, and between Wrexham and Chester at a cost of £30m and £40m respectively. In the same period Network Rail undertook major schemes such as rail electrification and re-signalling in the Cardiff area, costing £200 million and £450 million.

Road

- Road construction, investment and maintenance.
- Traffic reduction/traffic management policy and regulation, split between local authorities and the Welsh Government.

Other

- Liaison with Sustrans in Wales (though this is not a statutory power, but a relationship which has led to the Active Travel Bill consultation currently taking place).
- Travel for mobility impaired people.
- Land use/development
- Environmental issues.
- Investment incentives.

Powers that should be transferred

In order to achieve an integrated transport policy for Wales the responsibilities, powers and functions listed below should be devolved to the National Assembly and Welsh Government. In turn this might then transfer some of these powers/obligations to Joint Transport Authorities or local authorities. The policy-making role and power to finance would therefore be located within Wales. In all cases any responsibilities transferred to the Assembly would require a commensurate transfer of additional financial provision via the Welsh Block grant.

Generally speaking, it would be logical for any powers conferred on local government in previous legislation to be ascribed to the National Assembly. Any further powers would be devolved to the Assembly which could then as appropriate devolve them further.

Public Transport Policy

- Public transport policy generally (from Department for Transport).

Rail

- Rail investment (from Department for Transport and Network Rail but with a close operational and financial interface between the Welsh Government and Network Rail set out in the statute. This would reflect the current operational position between the two bodies).
- Rail passenger service levels and contractual arrangements with English train operating companies in Wales – for the West Coast Main Line, Cross Country, and Great Western with the block grant being increased by an amount commensurate with current expenditure (from the Department for Transport).
- Rail regulation (from Rail Regulator).
- Rail user representation - currently partly from England Passenger Focus and partly Passenger Transport Users Committee - so as to establish a Welsh structure to fulfil the current functions of Passenger Focus and the Passenger Transport Users Committee.
- Powers to procure public transport services, unless existing under the Transport (Wales) Act 2006, or the Railways Act 2005 and several Local Transport Acts. These are provided for in general terms by the Transport (Wales) Act 2006 but there are issues relating to specific services. For example, the provision to provide rail services using franchising formats other than the present process and type of bidder such as plc, co-operative company, not-for-dividend company. Provision for a state owned arms-length company should also be clear in any new legislation.
- All residual powers held by the Department for Transport should also transfer.

Bus

- Bus industry regulation (Department for Transport – see Appendix 1).
- Current powers of the Traffic Commissioners (Department for Transport).
- Aspects of traffic reduction/traffic management policy and regulation currently retained by Department for Transport.
- Personal safety of pedestrians, cyclists and provision for those groups.
- Bus user group representation - the operation of Bus Users (UK) Cymru Wales originates from Bus Users (UK), an England based body. However, the Welsh Government funds it in Wales. It is a statutory consultation body but has no powers of direction over bus companies (see Appendix 1).

Other transport areas

- Regulatory framework for taxis/private hire cars (part Department for Transport, local councils). There is currently a discussion taking place between the Welsh Government and local councils to see if a Wales national standard for taxis and private hire can be established.
- Integration of road and rail freight operations (Network Rail, Department for Transport).
- Airport development and air service development and regulation, with appropriate private sector involvement (Department for Transport, Civil Aviation Authority).
- Port development and shipping services promotion (Department for Transport).

A note on shipping and air transport

(i) Ports

There has been a difference in policy for ports between the Department for Transport and the Welsh Government in the past.

The Department for Transport has responsibility for security at both ports and airports and any transfer of this would be more to do with the policing function than the transport function. However, the Developing Ports National Policy Statement put forward by the Department for Transport in November 2009 failed to emphasise the potential employment role played by ports in Wales. Neither did it distinguish the type of market for Welsh ports (smaller general cargo vessels, bulk raw materials and cruise operations) from that in English ports where the ports of Southampton and Felixstowe seemed to be the only model considered.

This led the Department for Transport to assume that ports could and should only be developed by the private sector owners who in its view were well financed. The lack of powers for the Welsh Government to improve the infrastructure within the ports themselves prevented an integrated approach to freight infrastructure where landside road and rail facilities could be considered alongside the development of freight facilities at ports. This is the only basis for internal investment in a port is as a means of generating employment.

Wider powers for the Welsh Government are needed in order to achieve its objectives in this area. The responsibility for job creation in Wales rests with the Welsh Government and ports have an important part to play not only for freight but also for hinterland and direct employment through the cruise market. One cruise vessel (2,500 passengers) per week can generate £12m per annum and 90 jobs. Investment in ports should therefore be within the responsibilities of the Welsh Government to provide more appropriate incentives. The funding should be reflected in block grant allocation.

(ii) Air transport

A similar issue concerns air transport, although in relation to Cardiff Airport the integration of landside and airside infrastructure improvement by the Airport and the Welsh Government respectively appears to have been overcome in practical terms. However, it is still not satisfactory to have the same constraints on investment by the Welsh Government in Cardiff Airport as apply for example to Heathrow where the financial position of the airport company is far stronger

In both cases there are also EU state aid rules to be considered for operational subsidy and infrastructure investment. These would not be affected by any UK legislative changes.

Over the last three years the decline in passenger numbers at Cardiff airport has been a cause for considerable concern. This has in part been the result of the withdrawal of the BMIbaby airline's routes and the decision by two leading low cost airlines to operate from Bristol Airport.

The Welsh Government has recently put forward a proposal to purchase Cardiff Airport. It is premature to suggest the outcome until the due diligence, a financial / market business plan for the Airport and the Transport Business Plan for the Welsh Government (including issues such as road congestion, journey time and sustainability elements) have been completed.

A second proposal to construct a western gateway airport (or Heathrow Atlantic Terminal) on the

Cardiff Airport site has been made in response to the Department for Transport Aviation Policy Framework. This has congestion (air / road), environmental and operational benefits for south Wales and the M4 corridor and would have significantly improved road and rail connections to the Airport. Its purpose is to divert to Cardiff Airport, air traffic currently flying from Western Europe and North and South America into Heathrow.

Air passenger duty is a major cost to passengers travelling to and from the United Kingdom. Benefits in terms of cross price relationships would have the effect of attracting more aircraft movements into Cardiff Airport

Powers on airport development and on air passenger duty would have to be transferred or at least shared between the Welsh and Westminster governments.

Civil service capacity implications

The Welsh civil service currently has skills which enables it to organise quickly an analysis of transport issues using internal and external teams. For example, the rail electrification evaluation team was established within a month and using a very effective structure produced its initial report within six months.

What the Welsh civil service lacks is the internal specialist skills required for the discharge of the additional proposed transport specific functions. A transport-specific staff pool would need to be developed, as is the case with local government. Major investment appraisal or the development of new projects has been successfully undertaken by outside advisers and consultants and this could continue for many of the one-off tasks. However, the operational management roles, which the Welsh Government increasingly has to assume, do require a rethink of the employment process for specialist areas such as transport.

Appendix 1: Ownership and control of public transport

Current legislation: problems and solutions

Below is set out the case for transferring powers in this area. This would for example propose the repeal of Part 2 of the 1985 Transport Act and its replacement with Welsh legislation. This is seen as essential in order to integrate transport policy.

Deficiencies in the current arrangements

The current provisions could be argued to have the following deficiencies:

- Any subsidised service is prevented from competing with a commercial service but commercial services are generally cherry picked.
- Bus companies choose to operate profitable sections / times / days.
- Non-profitable sections or times of day and Sundays are subsidised by county councils.
- The inability to cross subsidise means that counties' expenditure is increased.

Damaging consequences to passenger services and the travelling experience and easy of travel have frequently followed from the 'free market provides' philosophy of the 1985 Act:

- Instability in the market (no control of timetable changes).
- Competition against Welsh SME companies by international, national and large regional bus operators more able to spread the risks of a contestable market.
- Domination of the market by such companies and groups with reduced opportunities for Welsh SMEs.
- No coordination of timetables.
- No cross subsidy.

The fact that the implementation of part of the Welsh Government's National Transport Plan, the trans-Wales coach service known as TrawsCymru (on its T1 Aberystwyth to Carmarthen route), can be prevented provides an example of the unfortunate consequences of the current arrangements.

The Solution

Arriving at the solution of the problem entails consideration of the question: Who should own and/or control public transport in Wales?

Ownership and control of public transport in Great Britain (but not Northern Ireland) has changed considerably over the last fifty years. A largely state-owned function took over from a mix of private and public ownership in the 1960s but was replaced by an almost entirely private ownership structure in the 1980s and subsequently.

Up to the 1960s the structure of the UK bus industry was as follows:

- Tilling Companies (state owned Transport Holding Company)
- British Electric Traction (BET Federation - private company)
- Municipal operators (state sector)
- Independent companies (private companies)
- Alexander/Scottish (state-owned Transport Holding Company)

This structure was replaced as from 1969 when parts of the previous structure were nationalised:

- Tilling Group became the National Bus Company (NBC) which also took over British Electric Traction.
- Municipals operators were taken over by in some areas by Passenger Transport Executives while in others they were retained by the Local Authorities. There were no Passenger Transport Executives in Wales.
- Alexander/Scottish along with Tilling Group companies in Scotland became the Scottish Bus Group.
- Independents, generally small companies, remained independent.

The Transport Act 1985 led to two policy developments:

- Deregulation of bus services.
- Privatisation of state-owned bus operations - National Bus Company subsidiaries; Scottish Bus group companies; Passenger Transport Executive bus operations; municipally owned bus departments.

In Wales Cardiff Bus and Newport Bus still remain in public (local authority) ownership.

The consequence in terms of ownership was to create dominant private groups reflecting the pre-nationalisation (1946) position with regard to the percentage of buses in major private sector groups

1946 (50 per cent private):

- BET
- Tilling
- Red & White

1980 (0 per cent private)

The big groupings were PTEs, NBC, SBG and Local Authorities. The private sector was represented by smaller independents

2006 (90 per cent private)

- First
- Stagecoach
- Arriva
- Go Ahead
- National Express
- Veolia
- SME (often family owned private sector companies)

This reflects the trend towards a few large privately owned groups alongside many very small companies in the bus industry.

Bus franchising

The principles set out in this paper are based on recognition of the failure of private control of the bus industry to achieve certain key objectives. However, private ownership of the bus companies, but operating in a government-run competitive franchising context, has been shown to work well in London. In this paper it is argued that that an opportunity has arisen in Wales to tender bus services so as to test

the operational and financial aspects of a public transport system outside the London context.

The TrawsCymru national bus network

This can be seen in the national long-distance bus network in Wales (previously branded loosely as Traws Cambria but now being developed as the TrawsCymru, a brand registered by the Welsh Government).

TrawsCymru is intended under the National Transport Plan to be franchised to several operators by the Welsh Government. There are new routes which as an integrated whole cannot be provided individually. Under the tendering process the public transport authority (Welsh Government) would maintain controls over the quality of service offered through the strategy and brand values it determined. Tenderers would have to comply with all operational, safety, maintenance and financial requirements either under the public service vehicle licensing arrangements (controlled by the Traffic Commissioners), or under the terms of the TrawsCymru franchise contacts.

Following the awarding of the new rail franchise in 2018 (or earlier if the present contractor agrees) the long distance bus (TrawsCymru) and rail (Rail Cymru) routes would be marketed as an integral part of the Wales public transport network. Standard fares would be charged and all of the following would be accepted: travelcards such as the National Flexipass; concessionary passes; the national public transport entitlement card as specified in the National Transport Plan (Pass Cymru); and all other similar tickets valid on Wales' buses. Contractors would be required to brand their vehicles to the public as operating a service on behalf of the Welsh Government.

This process is very different from the current approach under the 1985 Transport Act and the Competition Act whereby market forces determine the network, with competitive tendering restricted to loss-making services only. Rather it follows the 'London technique', which takes competition firmly off the road and keeps it as a supply-side competitive tendering process.

The advantages of this will be continuity of service, integrated services and standard fares, but achieved at a lower cost than either direct ownership by the public sector (other than at arms-length not-for-dividend options) or the present mix of market-led profitable 'cherry-picked' routes with subsidised loss-making services.

Franchising therefore provides the best of both worlds:

- Public control and service-specification.
- Private operation of the services.

It recognises that a free market is unsuitable for surface public transport operations because:

- They are unlikely to meet key objectives such as social inclusion, reduction in congestion and environmental sustainability
- The real competitor is not often bus or rail companies but the motor car, a factor that is clearly not recognised by the current competition legislation emanating from both the UK Government and the European Commission
- It is difficult to combine the profit motive (a reasonable objective within a mixed economy in appropriate circumstances) and the public service objectives referred to above.

Competitive franchising in Wales – an alternative framework for competition

The form of competitive tendering currently in use is intended to apply to loss-making routes for which revenue support is required. The perfectly competitive market conditions envisaged for other services under current legislative provisions could however result in a number of problems:

1. Instability

It is possible under the free market arrangements for companies to enter and leave the market relatively quickly. A period of notice is required. However, a company leaving the market because of low or no profit is unlikely to wish to continue to operate at a loss for the notice period. Even with an enforced notice period, movements into and out of the market, especially in the early years when companies are testing market potential and profitability, will lead to instability.

Passengers need stability and continuity of service in terms of routes, services, operators, fares and times. However under current arrangements these will all be subject to change at short notice. This instability may last for some considerable period of time before a new equilibrium is established. Instability resulting from service reorganisations has been shown to have a retrograde effect on levels of patronage.

2. Lack of co-ordination

The registration period envisaged is unlikely to provide Welsh Government / county councils with sufficient time to produce up-to-date, reliable timetables. Such timetables are of particular value to tourists, who are important contributors to the Welsh economy and their loss would be a particular inconvenience to them.

Co-ordination of services along individual corridors or on common routes prevents “bunching” of vehicles at certain popular times, and provides for a more regular headway between buses. It is also regarded as a more effective basis for tendering than a system of registration alone.

3. Competition on subsidised routes

The majority of rural routes are either (i) radial routes from a town centre extending beyond the urban area or (ii) inter-urban routes which also service urban areas at both ends of the route. The highest revenue yield per bus mile is in the urban areas; consequently any competition with subsidised rural services will be met on these sections of route. Deregulated competition will also be concentrated on high-yield times of the day (for example, from 7.30 am to 5.30 pm Monday to Friday) but will not supply the total capacity required. These competitors will abstract revenue from the subsidised rural service and the latter will have two possible options for its fares policy:

- If the subsidised service fares remain high passengers will tend to wait for the lower-fare vehicle. This will reduce patronage on the subsidised service and the subsidy level will need to rise if the service level is to be maintained.
- If the subsidised service reduces its fare to compete on the urban section of the route, the internal cross subsidy within the route will be reduced and public subsidy will have to be increased.

Where services are operated on a purely commercial basis they will be limited to the more heavily populated sections of such urban-rural routes. Any services into a town centre will be limited to those roads which are suitable for bus operation. It is likely, therefore, that subsidised and commercial services will operate along the same sections of road and both operators will pick

up and set down along that road. The tendering operator for the subsidised service will find it relatively easy to forecast the costs of operation, but revenue will be dependent on the extent of the competition and this will be very difficult to predict, especially at the start of the scheme.

A county council would therefore have to choose between the two fares-policy options for subsidised services described above. This would result in either the withdrawal of services considered socially necessary or a new round of tendering with a possible increase in subsidy, unless the commercial operator considered that the return was insufficient (because the route did not yield enough revenue for several operators), and in the meantime gave notice of withdrawal.

4. Establishing demand patterns

If the powers of public authorities are restricted solely to registration through the Traffic Commissioners, the county council will have no role in collecting and making available market data. Smaller companies, especially in early years, will not have the resources or the expertise to carry out the type of market analysis, which the big groups have undertaken. The passenger will not be fully aware of what services are available, and will not be able to demonstrate what the demand pattern might be. Frequent changes resulting from an unstable range of services will lead to a proportion of them seeking alternative travel modes.

A competitive franchising system

The objectives of such a system would be in line with those of competition legislation:

- Enabling bus services to be provided in a competitive market.
- Reducing operating costs and revenue support levels.
- Making bus operations more demand-sensitive.
- Improving value for money.
- Preventing large companies from dominating the market.

Such objectives could be achieved within a competitive framework while reducing the instability referred to above. The franchises would be issued by the Welsh Government or a local transport authority – the regional consortium, a Joint Transport Authority – which would also be the coordination and subsidy authority for a route, group of routes, travel corridor or small area. This is similar to Transport for London bus network tendering and the Great Britain railway franchising process. It is also closer to commercial retail franchising than to deregulation, and its adoption suggests that there are variations between the two which could provide a better competitive framework than the one currently in use.

Competitive franchising will prevent a return of the pre-1930s situation when there were many operators' no multi-operator tickets, constant changes in timetables, together with confusion and inconvenience for the passenger. In the present state of the bus passenger market and given the presence of the car as an alternative (unlike the 1920s) many passengers are likely to change modes. Competitive franchising will take competition *off* the roads and instead establish pre-operational (supply-side) competition under the aegis of the franchising authority. A form of competitive franchising can meet many of the operation and financial problems inherent in the current competition-based approach established by the 1985 Transport Act. It would:

- Allow competition.
- Provide a more secure market for restructuring bus service provision.

- Prevent instability.
- Enable the retention of the county councils' co-ordinating function, and the continuity of timetables and regular operations.
- Provide value for money.
- Take competition off the roads, but allow its full value to be realised through the franchising process.
- Enable a phased introduction of its proposals.
- Allow alternative forms of competitive franchising to be pursued.
- Allow for an integrated bus network.
- Enable the subsidising authority to predict its subsidy expenditure more accurately.
- Achieve efficiency without the existence of an unstable market.

Characteristics of a competitive franchising system

1. Routes would be specified by the franchising authority and tenders invited from potential operators. Such routes might be profitable or unprofitable.
2. The operator awarded the contract would not have to face subsequent competition on the routes specified during the contract period.
3. The franchise would be granted on the basis of the lowest subsidy requirement for a specified group of services. (An alternative would be to allocate a specified amount of money for the service package and award the contract to the operator providing the highest service level.)
4. The subsidy would be awarded for the whole of the contract period.
5. The contract period would be three to five years. The minimum period would be determined by the operators' requirements to make a reasonable return on investment and the maximum period would allow for competitive re-advertising sufficiently frequently to encourage the contractor to provide the quality of service required by the passenger and the franchising authority.
6. The right to develop subsidiary interests such as vehicle maintenance, advertising etc. as profit-making functions would be assured.
7. An operational plan and financial forecasts would be provided at the application stage. Performance could then be monitored against this plan.
8. Assets such as buses and garages, as well as employees, could be transferred from an operator losing a contract to the newly contracted operator at the end of the franchise period. This would provide further encouragement for a higher quality of capital equipment to be included in an operator's investment programme.
9. The operator could retain all revenue and profit together with the agreed subsidy figure in a shire-county franchising arrangement. Alternatively the present Transport for London process could be used. This receives all fares revenue and the operator receives an agreed sum for running the services.

The size of each franchised operation would be small enough to enable companies of varying size to compete, so achieving a particular objective of the 1985 Transport Act.

Such a system of competitive franchising has features in common with that currently operated by the Department for Transport for rail services. It has also been accepted as a suitable method for London's buses and has already been shown to be a workable framework for competition and subsidy. In the free competitive market it is a common means of selecting operators for food retailing outlets. This parallel with the highly competitive and profitable franchised operations used by

familiar high street companies such as MacDonald's (fast food retailing) or Holiday Inn and Marriott (hotels) suggests that it is suitable for the competitive aspects of bus operations.

It would achieve the benefits of competition whilst providing greater stability and co-ordination of services. Such a scheme has wide support amongst a variety of organisations in Wales but also in England and Scotland.

Competition in public transport is accepted as a valuable means of achieving better defined value for money from bus subsidies and the alternative outlined here is essentially about the detailed implementation of a competitive scheme.

The passenger railway has been franchised as a part of the privatisation of train services. Considerable discussion took place on the form of privatisation and the belief was that network benefits (e.g. integrated timetables and tickets interchangeable between companies) could only be achieved if a franchising authority (OPRAF, then the SRA and now the Rail Directorate DfT) was in place.

Appendix 2: Transport power and authority across the UK jurisdictions

Power / Responsibility	Wales	Scot	NI (1)	Eng (DfT)	Eng (PTE)(3)	Eng (Lond)(2)	GB (DfT)
BUS							
Subsidy contract payments	Y	Y	Y	Y	Y	-	-
<u>Frequencies, fares</u>							
Commercial routes - deregulated	Y	Y	N	Y	Y	N	-
Tendered (WG,SG,CC, PTE)	Y	Y	N	Y			
Franchised (London)	-	-	-	-	-	Y	-
State owned and controlled	-	-	Y	-	-	-	-
<u>User groups</u>							
PTUC / PVS	Y	Y	-	-	-	-	-
Passenger Focus	Y	Y	N	-	-	N	-
London Travelwatch	-	-	-	-	-	Y	-
Bus Users (UK)	Y	Y	N	Y	-	-	-
NI Consumer Council	-	-	Y	-	-	-	-
<u>Bus Industry Regulation</u>							
Traffic Area (Nation specific)	Y	Y	Y	Y	-	Y	-
Traffic Commissioner responsible to Senior Traffic Commissioner	Y	N	N	Y	-	Y?	Y
Traffic Commissioner appointed by domestic minister	N	Y	Y	Y	-	Y	-
Concessionary fares policy determined internally	Y	Y	Y	Y	Y	Y	-
RAIL							
Track Ownership NR	Y	Y	N	Y	Y	Y	-
Infrastructure Investment							
- Northern Ireland	-	-	Y	-	-	-	-
DfT	Y	Y	-	Y	-	Y	Y
NR	-	-	-	Y	-	-	-
WG/SG/NIG	-	Y	Y	-	-	-	-

Power / Responsibility	Wales	Scot	NI (1)	Eng (DfT)	Eng (PTE)(3)	Eng (Lond)(2)	GB (DfT)
London	-	-	-	Y	?	Y	-
Funding provided in block grant (large scale)	N	Y	Y	Y	-	-	-
Rail passenger service level	Y	Y	Y	Y	?	Y	-
Exclusive franchise powers on 'domestic' services	-	Y	N/A	-	-	-	-
Shared franchise powers on 'domestic' services	Y	-	-	-	-	-	-
State owned railway	-	-	Y	-	-	-	-
Control of other franchises (joint with DfT e.g. WCML, ECML, XC)	N	Y	N/A	Y	-	-	-
Rail regulation (ORR) (6)	Y	N	N	Y	Y	Y(6)	-
Provides direct grant to Network Rail	N	Y	-	Y	-	-	-
Operation, maintenance and renewal of railway infrastructure	N	Y	-	Y	-	-	-
Funding of large scale projects	N	Y	-	Y	-	-	-
	no notional allocation	through RAB (notional allocation)		through RAB			
ORR Advice to Ministers	Partially - on a non-statutory basis from 2012	Y	-	Y	-	-	-
High Level Output Statement	N, although can submit projects for consideration	Y		Y			
Power to specify services and regulated fares	Y	Y	-	Y	-	-	-
Power to fund improvement of rail services	Y	Y	-	Y	-	-	-
Power to fund rail freight schemes	Y	Y	-	Y	-	-	-
Rail user representation							

Power / Responsibility	Wales	Scot	NI (1)	Eng (DfT)	Eng (PTE)(3)	Eng (Lond)(2)	GB (DfT)
Passenger Focus	Y	Y	N	Y	Y	Y	-
PTUC	Y	Y	-	-	-	-	-
London Travelwatch	-	-	-	-	-	Y	-
Other							
Consumer Council (NI)	-	-	Y	-	-	-	-
Procuring public transport							
WG	Y	-	-	-	-	-	-
SG	-	Y	-	-	-	-	-
NIG	-	-	Y	-	-	-	-
DfT	-	-	-	Y	Y	Y	-
Via co-op / NfD	?	?	?	?	2	?	-
OTHER TRANSPORT FUNCTIONS							
Traffic Management policy	N	N	Y	N	N	N	-
Traffic Management legislation	N	N	Y	N	N	N	-
Traffic management implementation	Y	Y	Y	Y	Y	Y	-
Taxi / private hire cars							
Regulatory framework	N	-	Y	-	-	-	-
Licensing by LA's	Y	Y	Y	-	-	-	-
PORTS / AIRPORTS							
Freight grants (ports and rail)	Y	Y	Y	n/a	n/a	-	-
Security	N	N	Y	-	-	-	-
Port development	N	Y	Y	-	-	-	Y
Airport development							
(Commercial divisions)	N	N	Y	N	N	-	Y

Notes

(1) Northern Ireland

Here there is different transport governance from the remainder of the UK.

Translink is the brand name of the Northern Ireland Transport Holding Company. A public corporation owned by the government of Northern Ireland. It provides all rail services in NI and provides local bus services. It was created out of Ulsterbus, Belfast Citybus (successor to Belfast Corporation Transport and now called Metro) and Northern Ireland Railways. It has integrated the bus and rail operations throughout NI. It is responsible for bus and rail stations and has pursued a policy of integrated public transport hubs. The consumer protection body covering all public transport services is the Consumer Council.

(2) The Mayor of London / Transport for London

TfL franchises all bus services in the GLA area. Other private long distance commuter coach services operate on a commercial basis as do tourism services (e.g. open top buses).

(3) PTE's in England

Buses operate under the same deregulation regime as in Wales. As with local authorities in Wales they have to decide what bus services to subsidise under the Transport Act 1985. The Traffic Commissioner for the North West has the same responsibilities as in Wales and is responsible to the senior Traffic Commissioner.

(4) Outside Northern Ireland

Predominantly private sector bus companies either large groups (e.g. Arriva, First, Stagecoach, Go Ahead) or independent operators of varying sizes. Cardiff Bus, Newport Transport, Reading Buses, Thamesdown (Swindon) and Lothian Buses (Edinburgh) are public sector owned. TrawsCymru and Bwcabus vehicles and registered trade-marks are publicly owned. Their operations are tendered out to private companies.

(5) Scotland

Buses operate under the same regulated market as in Wales determined by the Transport Act 1985. The Traffic Commissioner for Scotland is appointed by the Scottish Government? Secretary of State for Scotland not the Secretary of State for Transport as is the case in Wales. The Scottish Traffic Commissioner, Ms Joan Aitken is not subject to guidance from the senior Traffic Commissioner in London but her actions and performance of duties are as set down in the Administrative Policy Guidelines so far as they apply to the Statement of Principles for judicial Ethics for the Scottish judiciary (April 2010).

(6) Scotland

Rail regulation and administration of major rail projects.

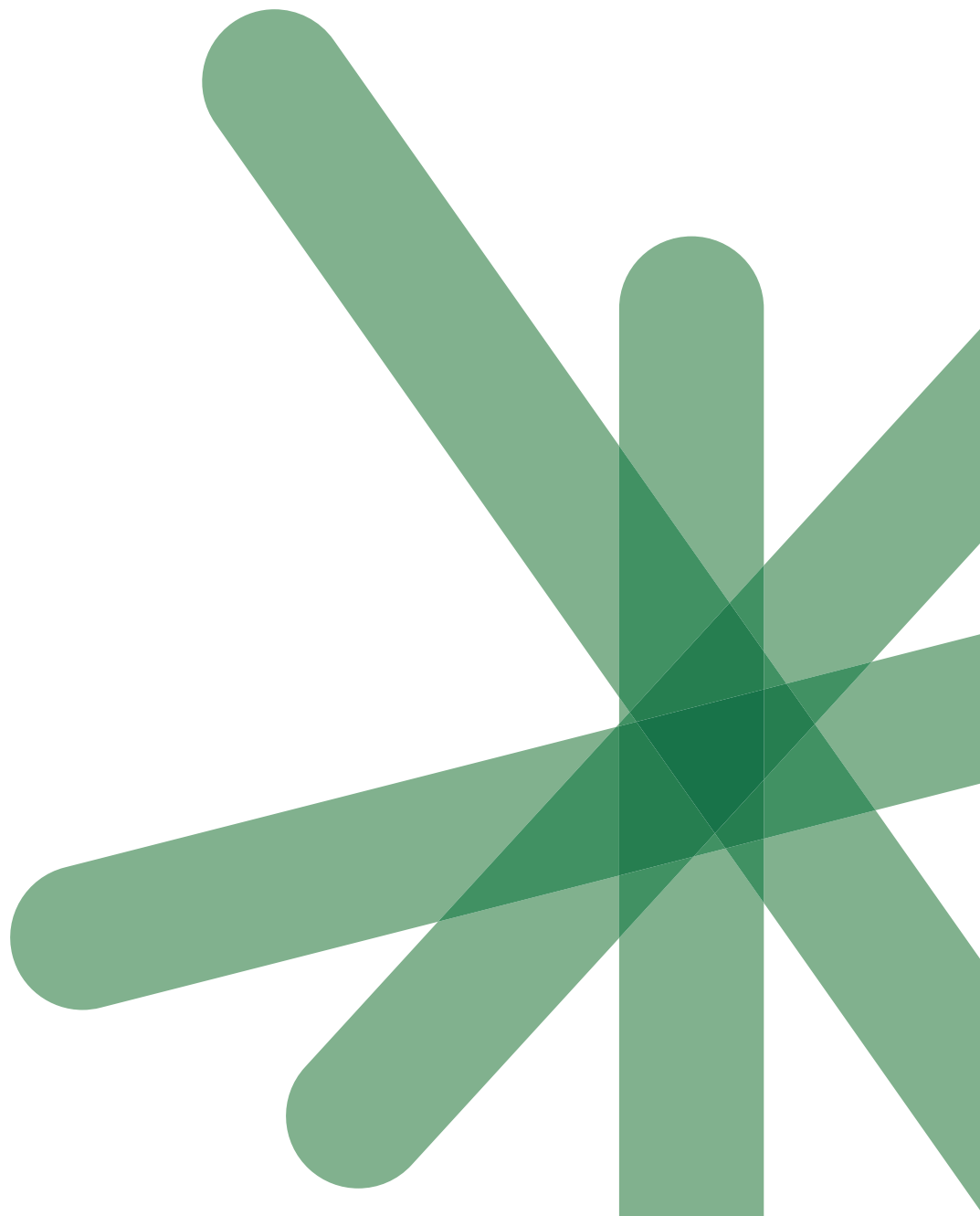
(7) Concessionary bus fares policy

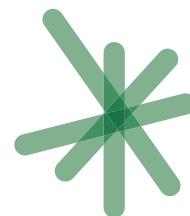
This is determined by the individual national governments or PTE Integrated Transport Authority/ DfT in England. In Northern Ireland the concessionary fares scheme covers all major bus operators and NI Railways. There is also an Island of Ireland concessionary pass for senior citizens.

Chapter 6

Policing Powers

Colin Rogers and James Gravelle





Policing Powers

Colin Rogers and James Gravelle

Overview and main recommendations

Devolving policing powers to Wales would bring a range of benefits. Firstly, given the predisposition of local authorities, police forces and the Welsh Government, there is potential for improved communication and closer partnership working. Secondly, whilst reform of public services in related areas of community safety is not dependent on transfer of policing powers, the latter could act as a catalyst to their reform. Redesigning service delivery could, in turn, serve to make Wales' police forces more effective and efficient than at present. Thirdly, with powers devolved, Welsh Government Ministers would need to become fully informed about policing matters. In combination with their working more closely with Chief Constables, this should lead to clearer lines of accountability, both between police forces and the Welsh Government, and between these bodies and the Welsh public.

However, while benefits arising from proximity are evident, there could be pitfalls, such as the potential for politicisation of policing matters. This risk has been underlined by the new system of Police and Crime Commissioners, but could possibly be even greater where working relationships were particularly close.

The most significant practical consideration in the debate on devolution of policing is the financial effect of transfer of powers. There are two elements to this. Firstly, resources would need to be sufficient to ensure at least as good a standard of delivery as under the existing settlement. Over one third of funding for policing comes from the Home Office. Should powers be transferred, not only would associated monies need to be transferred in full, but the need for additional resources to establish structures to replace those at the UK level would have to be accounted for.

Secondly, concerns have been raised by experts in the field at the possibility that funding of existing priority areas – notably health and education – could be prioritised at the expense of funding the police service, to the detriment of public safety. However, it is unlikely that a Welsh government, any more than a UK government, would significantly reduce funding for the police service. In any event, this should not be regarded as a valid consideration in determining at which level responsibility for the police should lie. Rather, it is a matter of democratic accountability to the electorate.

New agreements on the operation of mutual aid would need to be reached. Clarity would be needed on how cross-border operations would be arranged and funded. This is equally true of the way that Welsh police forces would continue to interact with UK-level organisations such as the National

Crime Agency and its constituent commands.

Devolution of policing would entail the establishment of a police training college in Wales. All senior and specialist officer training is currently undertaken in England, with attendant implications for officers' understanding of the contextual differences between England and Wales. However, although Scotland has its own police college, senior officers from Scottish forces are also trained in England. Improved training capacity in Wales need not therefore imply separate provision of all aspects of police training. What must be better understood is the likely impact of transferring powers on cross-border knowledge sharing and recruitment, particularly of senior officers.

Devolution of policing would involve significant enhancement of civil service capacity. In Scotland, development of skills in this field has occurred over the course of decades. In the event of the transfer of powers Wales might not necessarily be able to rely on on-going expert advice from London-based civil servants.

It is clear that the devolution of policing would be a complex process, involving significant resources.

With the introduction of a reserved powers model for the National Assembly the timing of the devolution of policing would be an important issue. Responsibility might be reserved to Westminster until such time as this vital function could receive the full attention it requires at the time of its transfer to Wales. The suggestion has also been made that it might be appropriate to allow the new system of Police and Crime Commissioners to bed down before policing is actually devolved.

Current policing priorities for Wales

At present the core priorities for policing in Wales are as follows:

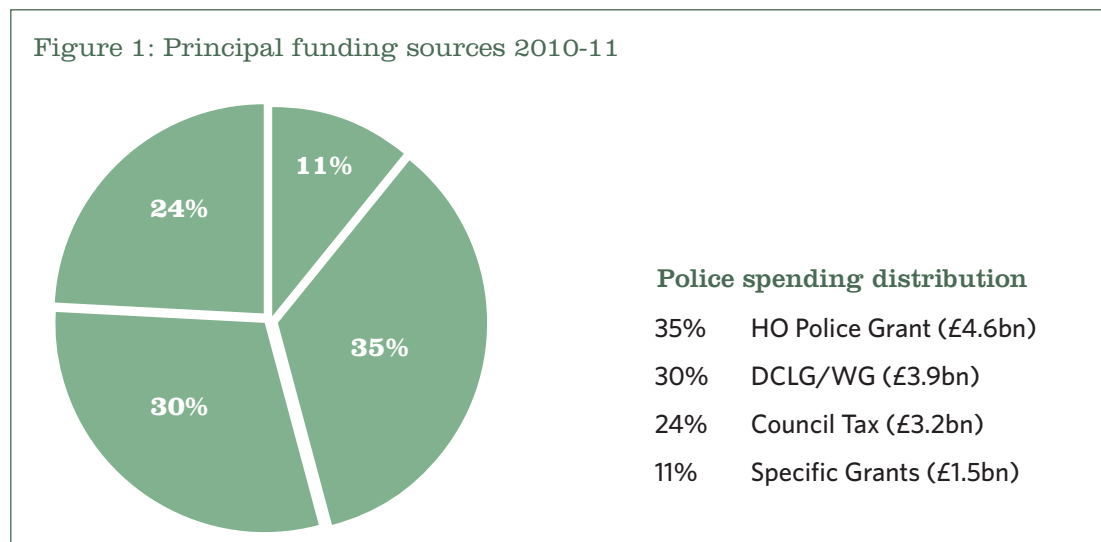
- To ensure public protection and the protection of vulnerable persons through a joined up approach.
- To effectively counter terrorism, organised and major crime to ensure public safety across Wales.
- To ensure that neighbourhood policing is embedded and remains local.
- To promote joint working and collaboration both within the police service and with partners in local Government and the criminal justice system, including the private and voluntary sectors.
- To continue to engage with Central Government for sufficient funding to provide an efficient and effective police service in Wales.
- To raise the profiles of the police and their governing bodies and fully engage with the Welsh Government.

Police funding

The funding arrangements are perhaps the most complex of all public sector services. This is in part due to the complexities surrounding governance and the structure of policing across England and Wales. Funding across both central Government and local Government is difficult enough. However, the fact that the Welsh Government also provides funding, along with almost 16 other sources, makes this multifaceted landscape of funding almost incomprehensible.

The main funding for police services within England and Wales comes from central Government. This accounts for 76 per cent of all police funding and comes directly from the Home Office, the Department of Communities and Local Government, and within Wales, the Welsh Government. Police authorities account for 24 per cent of funding, being raised through council tax. Specific grants, relating to issues safety and security account for 11 per cent of funding.

This funding distribution is illustrated in Figure 1 below. It is from this figure that 20 per cent savings must be made over the coming years leading up to 2014-15. The total expenditure in 2010-11 reached £13.02 billion.



However, following the election of the coalition Government in June 2010, an emergency budget was undertaken resulting in department's across Government losing £6.2 billion, of which £125 million came from savings in the police budget. This reduced police expenditure to £12.9 billion.

Police spending in Wales

Policy responsibility for the police service in Wales is non-devolved and rests with the Home Office. However, funding for police authorities is provided through a three-way arrangement between the Home Office, the Welsh Government and council tax payers, as shown in the box below.

Welsh police funding 2011-12

- The provisional Home Office 'core' funding for the four Welsh police authorities for 2011-12 totals **£232.7 million**.
- Two of the authorities (Dyfed Powys and North Wales) qualify for a 'top up' of **£13 million** of Home Office funding. Top up grants are calculated using many indicators including an assessment of student populations, employment figures and welfare claimants.
- The four police authorities will also, provisionally, receive **£14.7 million** from the Home Office for neighbourhood policing. This will come from the specific Grant scheme.
- Therefore total provisional funding for the four authorities from Westminster stands at **£260.4 million**.
- Welsh Government funding for the four police authorities for 2011-12 totals **£161m**.
- In total, the four police authorities will receive **£421.4 million** in UK central and Welsh Government revenue funding for 2011-12 (excluding anti-terror funding - which is not revealed)

Source: Home Office and Welsh Government.

Devolved spending considerations for Wales

There are additional devolved spending areas that must be considered when evaluating expenditure on policing within Wales. As is highlighted throughout this paper, policing is a non-devolved area and dealt with by the coalition Government in Westminster. Having acknowledged this, the landscape of policing is complex, and often overlaps with devolved areas in which the Welsh Government has control. Because of this, some spending relating to devolved responsibilities must be recognised. These include spending on 'supporting communities and people' and 'safer communities'. Table 1 illustrates such spending, exploring some of the specific areas within both spending allocations.

Table 1: Police spending distribution

Devolved Spending Area	Example
Supporting Communities and People (£53m)	Financial Inclusion (£4.3m)
	Communities First (£40m)
Safer Communities (£44m)	Youth Justice (£4.9m)
	Domestic Abuse (£3.6m)
	Substance Misuse (£27.4m)

Community safety

Community safety straddles the devolved and non devolved partnership landscape which makes the context for policing in Wales unique. The influence of the Welsh Government is seen to be as important as the Department for Communities and Local Government in England. In developing relations with partners, a significant benefit has arisen from the fact that a high proportion of elected Police Authority members are also senior Local Authority politicians. That seniority of representation also reflects the importance of the police element of the precept to local authorities and the Welsh Government.

Since 2006, there has developed an all-Wales approach to collaboration through the Police Authorities of Wales, which allowed for a flexible local, regional or national approach as required. The collaborative structure also enabled a quick response to the Welsh Government on issues where a single policing response was appropriate. As part of this collaborative approach to protective services, two organisations have been established:

- TARIAN – a Welsh Government funded operation involving the four Welsh police services to tackle organised drugs crime.
- the Wales Extremist and Counter Terrorism Unit.

These units recognised the fact that organised crime and terrorism require specific responses and they provide Welsh forces with a flexible level two capability.

In Wales there are currently four Welsh Local Criminal Justice Boards. Initially they were aligned to the criminal justice structure in Wales but in recent years many of the partners involved have moved to an all Wales structure. In consequence, consideration is currently being given to establishing a strategic all Wales Criminal Justice Board.

Current police arrangements

Whilst policing is non-devolved, the four Welsh police forces have strong links with the Welsh Government. They have a permanent police presence with the Welsh Government in the form of two seconded officers, a superintendent and an inspector, who make up the Police Liaison Team.

The Police Liaison Team provides a single point of contact with the four Welsh forces. They work close with the Community Safety Division and engage on police and community safety related matters with officials from across Welsh Government and the National Assembly.

The team operates on a number of levels but allows for an all-Wales response on particular issues that may involve policing. For example, each Association of Chief Police Officers (ACPO) Wales officer has responsibility for particular areas such as community safety or transport. The police liaison team makes arrangements for ACPO members to have access to the relevant minister in order for a police input and advice on certain matters. The unit mainly interacts with the civil service in achieving these objectives.

Possible future arrangements

Any devolution of police powers to the Welsh Government will necessitate an increase in the number of staff required to maintain and enhance the links with the current four police forces. In turn the Welsh Government would need a Minister responsible for policing. This position would require substantial civil service support beyond existing civil service capacity. The current police unit

would also need to be expanded to deal with the day-to-day issues surrounding the legal and other requirements of administering a devolved police service. This is more likely with the introduction of the Police and Crime Commissioners in November 2012.

Should policing be devolved to the Welsh Government governance and accountability structures would need to be considered carefully. One of the cornerstones on the current policing arrangements in this country revolves around the operational independence of the Chief Officer of police and particularly political influence upon such independence. In Scotland for example, where control of the police is devolved, a balance has been struck between the Chief Officer of Police and the Minister for Policing to prevent direct political interference.

Any future arrangement involving a Minister for Police and the four Police and Crime Commissioners in Wales could be a cause for concern. It will be quite possible for all four commissioners and the policing minister to be from the same political party. A consequence could be the exertion of political influence from above and alongside Chief Officers within any tripartite accountability arrangements.

Major legislation underpinning accountable policing in England and Wales

Over the past 50 years many Acts of Parliament have introduced measures concerning policing in England and Wales. However, this section will concentrate on those that have had major bearings upon the accountability and governance structures of policing in England and Wales.

The Police Act 1964

This introduced the current (until November 2012) accountability arrangements for policing in England and Wales, namely the tripartite structure, comprising the Chief Constable, the Home Office and the Police Authority. Differing power dynamics between the Police Authority and the Chief Constable, combined with an understandable reluctance on the part of those without specialist knowledge to make decisions, probably explains why power appeared to become concentrated in the hands of Chief Constables. This was despite later changes introduced by the introduction of the Police and Magistrates Courts Act 1994 and may go some way to explain the forthcoming introduction of Police and Crime Commissioners.

The Local Government Act 1972

This provided measures for the alignment of police forces with the newly created structure of local government and eventually resulted in the formation of 43 separate police forces each with its own police authority.

The Police and Criminal Evidence Act 1984

Following the Scarman report into the 1981 disturbances in Brixton (Scarman 1981), a Home Office circular recommended the establishment of local consultative committees to improve discussion and communication between local police commanders and the people in their areas. These became statutory requirements under the Police and Criminal Evidence Act 1984 (PACE). Arrangements of a similar type continue under the present system. However PACE was seen as having much greater accountability in the form of legal regulation regarding the application of police powers.

The Police and Magistrates Courts Act 1994

This introduced a number of major reforms to the tripartite system (later consolidated into the Police Act 1996) within a framework of national planning and performance management. Under this Act, Police Authorities became independent bodies, set apart from the local Government structure, and tasked to provide for an efficient and effective police force. Funding came from local taxation, through a precept on the council tax. Since this change, the proportion of police funding paid by council tax precepts has continued to rise substantially.

In addition, the Act restricted the size of most Police Authorities to 17 members, consisting of nine councillors, three magistrates and five independent members who have significant local involvement. In particular the Act allowed for the following:

- Police Authorities have to publish an annual plan, which includes local and national objectives along with associated performance targets.
- Chief Constables were given responsibility to 'direct and control' their police forces. This involved taking over the responsibility for detailed management of their staff, including civilian employees, and for setting the annual budget.
- Chief Constables were employed on fixed term contracts and the Home Office was provided with a number of additional powers regarding performance targets, setting minimum budgets for forces.
- The Home Secretary also had greater powers to amalgamate police forces.

The Crime and Disorder Act 1998

This placed a statutory duty upon Local Authorities for crime and disorder reduction and required the establishment of local multi-agency Crime and Disorder Reduction Partnerships in England and Community Safety Partnerships in Wales. The Act defines 'responsible authorities' which have a statutory duty to work with other local agencies and organisations to implement strategies to tackle crime and disorder. Following a review during 2006, performance management was introduced in which the former three yearly crime and disorder audit was replaced by an ongoing rolling audit based on a six monthly review. Audits are now refreshed annually.

The Police Reform Act 2002

In terms of police governance, this Act is seen as being of great significance. The Act introduced the following measures:

- An annual policing plan setting out central Governments strategic priorities for policing and requiring Police Authorities to produce a three year strategy consistent with the National policing Plan.
- Increased powers for the Home Secretary to introduce good practice countrywide through statutory codes of practice and to make regulations regarding governing police procedures.
- Powers for the Home Secretary to require a police force to take remedial action where they are judged by Her Majesty's Inspectorate of Constabulary to be inefficient or ineffective.
- Strengthening Police Authority's powers to require the early departure or to suspend a Chief Constable in the public interest.

The Act also enabled Chief Officers to designate Police Authority support staff as 'Community Support Officers', investigating officers, detention officers or escort officers in order to support police officers.

The Serious Organised Crime and Police Act 2005

This established the Serious Organised Crime Agency which brought together the National Crime Squad, the National Criminal Intelligence Service, the part of HM Revenue and Customs that dealt with drug trafficking and associate corporate finance and the part of the UK Immigration Service that dealt with organised crime.

The Police and Justice Act 2006

This changed the composition of Police Authorities in an attempt to enhance their democratic legitimacy. The category of magistrate membership was abolished with most Police Authorities now consisting of nine elected councillors and eight independent members. The Act also amended the powers of Police Authorities to hold the Chief Constable to account as well as the persons under her/his control.

The Police Reform and Social Responsibility Act 2011

This introduced numerous changes relating to licensing, demonstrations, drugs misuse, police structure and governance. It abolished the tripartite system of governance within England and Wales by replacing Police Authorities with elected individuals known as Police and Crime Commissioners. This change is discussed later in the report.

It is noteworthy that no legislation that has been introduced specifically for policing within Wales.

Accountability: present and future

England and Wales- the Tripartite System of police accountability

The current system of holding the 43 forces of England and Wales accountable has been characterised as the tripartite structure of police accountability, shown in Table 2.

Table 2: Tripartite System of Police Governance

Home Secretary/Home Office	Local Police Authority	Chief Constable
Determines key national policing objectives. Presents annual policing plan to Parliament.	Responsible for maintaining an effective and efficient force.	Responsible for direction and control of the force.
Sets police performance targets. Requires a police force to take remedial action if found inefficient or ineffective.	Determines local policing priorities. Produces a three-year strategy consistent with national policing plan.	Drafts local policing plan in conjunction with local Police Authority. Responsible for achieving local and national policing objectives.
Determines cash grant to Police Authorities.	Determines arrangements for public consultation.	Responsible for resource allocation.
Approves appointment of Chief Constables.	Precepting body for budgeting and resource allocation.	Chief Constable and Deputy/ Assistant Chief Constables on fixed term contracts.
Issues statutory codes of practice and directions to Police Authorities.	Responsible for appointment and dismissal of Chief Constable.	
Has authority to order amalgamations.	Can require suspension or early dismissal on public interest grounds.	
	Membership of 17.	

Established by the 1964 Police Act which followed the 1962 Royal Commission on the Police, the tripartite system remains the fundamental basis of police governance. It distributes responsibilities between the Home Office, the local Police Authority, and the Chief Constable of the force. Subsequent legislation has endorsed the tripartite arrangements.

The system provides accountability to Parliament through the Home Secretary who sets key priorities within a National Policing Plan. Accountability is through the local Police Authorities, comprising elected local councillors, magistrates and business representatives nominated by a central panel. In practice, Chief Constables also respond to Whitehall policies and circulars. Arguably, the autonomy of Chief Constables is limited by the current arrangements, although case law has made it clear that the police are the servants of the law in terms of their operational discretion, and are not subject to administrative or political direction.

One intention of the 1994 Police and Magistrates Courts Act was to strengthen the role of local Police Authorities by giving them additional powers, including involvement in developing local policing plans.

However, the 2002 Police Reform Act moved greater power towards the centre as a result of the introduction of the Home Secretary's rolling three year National Policing Plan. Table 2 shows the current balance of powers and the respective responsibilities of the tripartite structure.

Police and Crime Commissioners

As discussed earlier, in November 2012 the Police Reform and Social Responsibility Act 2011 replaces Police Authorities with the elected position of Police and Crime Commissioners (Home Office 2010a). In addition, an independent police and crime panel and a new National Crime Agency were created.

One of the primary stated objectives of the reforms is to increase understanding and participation in policing by reconnecting the public with the police. Under the new revised system, the Police Authority has been replaced within the tri-partite system to include instead a Police and Crime Commissioner for each police force excluding London (Home Office 2010b). The main functions of the Commissioners are:

- Holding the Chief Officer to account by ensuring the priorities set by the wider public are achieved. It will be for the Commissioner to ensure that maximum efficiency, effectiveness and economic viability is attained.
- Engage with and represent local communities within the force area.
- Set the policing budget and the precept (the proportion of council tax that is spent on policing).
- Appoint the Chief Constable.
- Where necessary dismiss the Chief Constable.

Although the role of the Commissioners is similar to the responsibilities of the Police Authorities, one of the significant differences is that the Commissioner will have the power to dismiss Chief Officers. It is hoped that the introduction of directly elected Commissioners will stimulate engagement and raise awareness by becoming more transparent and ultimately more accountable and accessible to the public.

The only difference between Police and Crime Commissioners in England and those in Wales lies in the fact that as Community Safety is the remit of the Welsh Government, Commissioners in Wales have a duty to report to the Welsh Minister responsible for this portfolio.

Scotland

At present there are eight police forces in Scotland. However, under the forthcoming Police and Fire Reform (Scotland) Act, during 2013 there will be a single amalgamated and devolved police force, known as The Police Service of Scotland accountable to:

- The Scottish Police Authority
- The Scottish Ministers
- The Chief Constable

In part this emulates the tripartite system in England and Wales, but allows for the operational independence of the Chief Officer of police not to be compromised by one political party.

Northern Ireland

Here devolution is slightly different to Scotland and Wales, with Government powers divided into three categories: transferred, reserved and excepted. In March 2010, an agreement was passed to transfer powers of justice and policing to Northern Ireland. Reserved powers - which could be transferred in the future with cross-community consent - include prisons and civil defence.

The Strategic Policing Requirement

The Strategic Policing Requirement has been produced by the Home Office to inform police forces and police authority's plans for 2012-13 with the intention of improving relations during the transition

period from Police Authorities to Police and Crime Commissioners. From November 2012 Chief Constables will be held to account for the totality of their policing, not just local but also national. The national threats identified by Strategic Policing Requirement are listed in Table 3.

Should any of these materialise it is up to the Police and Crime Commissioners to ensure the Chief Constable has in place plans for an appropriate response. The Strategic Policing Requirement will undoubtedly have implications for any form of devolved policing to Wales, both internally and externally.

Table 3: National threats

Threat	Risk
Terrorism	Which the National security Risk assessment recognises as a tier 1 risk.
Civil Emergencies	Identified as a tier 1 risk and requires an aggregated response across police force boundaries.
Organised Crime	Recognised as a tier 2 risk. Large-scale cyber crime, border security and economic crime may have an organised crime dimension as well as financially motivated organised crime.
Public Order	These incidents that cannot be managed by a single force acting alone and require mutual aid to ensure that the peace is maintained, as well as facilitating peaceful protest.
Large Scale Cyber Incident	This has been identified as a tier 1 risk and could include a criminal attack upon a financial institution or where many people or businesses across the UK are targeted.
Major Events	These may impact upon policing requirements, for example, the 2012 Olympic games, which has implications for crime and policing.

Arguments for devolving police powers

The following summarises the arguments elicited during interviews for this paper in support of devolving police powers to the Welsh Government:

Closer co-operation

The police service and partnerships generally work better in Wales than in England by those interviewed. In part this may be due to Wales being geographically smaller. In addition, it was suggested that Local Authorities, the Police, and the Welsh Government place more importance on the notion of partnership working.

Opportunity to redesign services

Devolution of policing powers was seen as catalyst for change in the way the delivery of other public

services involved in community safety not just the police. It was suggested that redesigning service delivery would improve the effectiveness, efficiency and economic viability of Welsh police forces and their partner agencies such as local authorities. In particular, reference was made to the role of the new Police and Crime Commissioners who have been given the responsibility for overseeing the whole of the delivery of the partnership approach to policing, and who are not just focused upon the police organisation. This may also afford an opportunity to streamline Local Authority provision in a regional format aligned to police provision. For example, the rationalising of local service boards to coincide with police boundaries may be an efficient way of achieving this.

Criminal justice system alignment

It was considered that devolving other criminal justice agencies to the Welsh national level would achieve a more efficient delivery of services. All of those interviewed foresaw problems in devolving police services to the Welsh Government so long as other agencies within the criminal justice remained non- devolved. Devolving the system as a whole would achieve much greater 'joined up' service delivery, closer links to the community, together with an increased emphasis on localism.

In the meantime it was emphasised that any delay in the alignment with other criminal justice agencies should not stand in the way of devolution of police powers to the Welsh Government. As one respondent put it, if function was established first, then the form or structure required for delivery would naturally follow.

Improved communication and accountability

Devolving police powers to the Welsh Government would result in it becoming better informed about the complexities of policing. Currently there are too few experts within the Government specialising in policing. If policing were devolved a Minister would provide a single point of contact and greater access for the force to policy-making. It flowed from that that there would be a more efficient delivery of the service than can be achieved under the present situation where Chief Police Officers in Wales have to deal with the Home Office in London. In general the consensus was that devolving of policing powers would lead to improved communication and accountability between the police, other agencies and the Welsh Government.

Improved service delivery reflecting local needs

Interviewees felt that devolving policing powers to the Welsh Government would provide for closer links to the community, with a greater 'joined up' approach to dealing with locally identified problems. The ongoing collaboration between Welsh forces supported by the Welsh Government was highlighted as being very positive. Identifying local problems and needs, and obtaining funding from the Welsh Government, had already been successful. For example, Operation TARIAN, funded by the Welsh Government, had been extremely successful in tackling illegal drug activities across Wales.

Potential drawbacks in devolving police powers

Despite the positive comments highlighted above, a number of potential drawbacks to devolving policing powers were highlighted:

Funding

Given the climate economic austerity, there were concerns about funding. Interviewees were

worried about the priority Welsh Government would give to policing. Within its current budget, the Welsh Government naturally places more importance upon health and education than it does on policing. There were also concerns about how the Welsh Government would relate to the new Police and Crime Commissioners who also have responsibility for ensuring adequate funding for the police through setting a precept on the council tax.

National and international commitments

Welsh police forces currently have an arrangement with their English counterparts for mutual aid, which will be carried forward following the introduction of the Strategic Policing Requirement. Police officers from Welsh police forces are seconded to UK and international policing organisations and assist in tackling global organised crime and terrorism. Interviewees expressed concern about how these arrangements would work if powers were devolved to the Welsh Government.

Impact on criminal justice processes

Several interviewees expressed concerns regarding the possible impact upon the process of delivering criminal justice in Wales should policing powers be devolved. In particular, it was felt that if funding were not adequate then the court system might not function as efficiently as it should, and that the partnership approach may suffer from underfunding.

Conclusion

In general there was support devolution of police powers to the Welsh Government from the majority of agencies and individuals interviewed as part of this research. There was concern about the capacity of the Welsh Government to deal with the administration, governance and accountability that would be required. The position of a Policing Minister within the Welsh Cabinet would need to be created and the accountability and role of Police and Crime Commissioners would need to be clarified.

There were concerns, too, that funding for a devolved police service in Wales would be insufficient. Any move to devolve policing powers should include an adequate commitment to funding. In addition, the importance of the police role within the Welsh Government, compared with established Welsh Government functions such as health and education, would need to be clearly identified.

It is recommended that a close study should be made of the forthcoming changes to policing in Scotland. Despite the history of devolution being different to that of Wales, the structure for accountability and governance of the new national force for Scotland may provide a basis for a framework for any future arrangements in Wales. In particular, the use of a Police Authority made up of diverse members may remove any particular problem of interference with the operational independence of Chief Officers.

Appendix A: contacted organisations

In preparing this report, the following methodologies were employed:

1. Unstructured interviews were held with a number of prominent individuals representing stakeholders within the police organisation, as well as others within the criminal justice system within Wales.
2. In depth literature review was conducted regarding governance and accountability processes in relation to policing in England and Wales.

During the research for this paper it became clear that many individuals and agencies that could have taken the opportunity to provide their views would not engage in the process. Despite being disappointing, this is quite an important finding. It demonstrates the strength of the current tripartite system which means that any move to change the current accountability process may meet with some considerable opposition. Further, it highlights the political sensitivity of the subject under discussion, especially in the light of the fact that many agencies are currently preparing evidence for the Silk Commission.

Many individuals contacted were reluctant to discuss the topic, or would not respond despite several attempts at contacting via e-mail and telephone. Several initially agreed to be interviewed only to cancel soon after. Several who were interviewed wished their comments to be 'non-attributable' but were keen to provide their views. Others were quite open regarding their opinions. The list of organisations and agencies initially contacted for consultation is as follows (**bold** indicates those who engaged in the consultation process):

Association of Chief Police Officers (Cymru)

Magistrates Association (Wales)

Crown Prosecution Service (Wales)

Police Superintendents Association (Wales)

Police Federation (Wales)

Community Safety Unit, Welsh Government

Welsh Association of Community Safety Organisations

Police Authorities of Wales

Police Liaison Unit, Welsh Government

Potential Police and Crime Commissioners

Appendix B: glossary of police terminology

(BTP) British Transport Police
(CNC) Civil Nuclear Constabulary
(CSPs) Community Safety Partnerships
(CSOs) Community Support Officers'
(CDRPs) Crime and Disorder Reduction Partnerships
(HMIC) Her Majesty's Inspectorate of Constabulary
(HMRC) HM Revenue and Customs
(MOD) Ministry of Defence
(NCA) National Crime Agency
(PCCs) Police and Crime Commissioners
(PACE) Police and Criminal Evidence Act
(PAW) Police Authorities for Wales
(PMCA) Police and Magistrates Courts Act
(PSNI) The Police Service of Northern Ireland
(SOCA) Serious Organised Crime Agency
(SPR) Strategic Policing Requirement
(TARIAN) Welsh Government funded operation involving the four Welsh police services to tackle organised drugs crime
(WECTU) Wales Extremist and Counter Terrorism Unit
(WG) Welsh Government

References

- American Psychological Association, *Ethical Principles in the Conduct of Research with Human Participants*, Washington D.C., American Psychological Association, 1982.
- Audit Commission, *Sustaining Value for Money in the Police Service*, London, Audit Commission, 2010.
- Austin, M., Furr, M. and Spire, M., *The Effects of Neighbourhood Conditions on Perceptions of Safety*, *Journal of Criminal Justice*, 30 (5), 417-427, 2002.
- Babbie, E., *The Practice of Social Research*, 12th Edition, Belmont: USA, Wadsworth Thomson Learning, 2010.
- Bailey, C., *A Guide to Field Research*, California, Pine Forge Press, 1996.
- Bailey, K., *Methods of Social Research*, 4th Edition, New York, Simon and Schuster, 2007.
- Barnes, I. and Eagle, T., *The Role of Community Engagement in Neighbourhood Policing*, *Policing: a Journal of Police and Practice*, 2 (1), 162-172, 2007.
- Barton, L. and Barton, H., *Challenges, Issues and Change: What's the Future for UK Policing in the Twenty-first Century*, *International Journal of Public Sector Management*, 24 (2), 146-156, 2011.
- Berg, M., Dean, G., Gottschalk, P. and Karlsen, J., *Police Management Roles as Determinants of Knowledge Sharing Attitudes in Criminal Investigations*, *International Journal of Public Sector Management*, 21 (3), 271-284, 2008.
- Berry, G., Izat, J., Mawby, R., Walley, L. and Wright, A., *Practical Police Management*, London, Police Review Publishing Company, 1998.
- Boyd, E., Geoghegan, R. and Gibbs, B., *The Cost of Cops: Manpower and Deployment in Policing*, London, Policy Exchange, 2001.
- Brain, T., *The History of Policing in England and Wales From 1974: A Turbulent Journey*, Oxford, Oxford University Press, 2010.
- Brand, S. and Price, R., *The Economic and Social Costs of Crime*, Home Office Research Study 217, London, Stationery Office, 2000.
- Brown, A., *Organisational Culture*, 2nd Edition, London, Pitman Publishing, 1998.
- Brown, J., *Police Research: Some Critical Issues*, in Leishman, B., Loverday, B., Savage, S., eds. *Core Issues in Policing*, London, Longman, 1996.
- Bryman, A., *Social Research Methods*, 3rd Edition, Oxford, Oxford University Press, 2008.
- Cabinet Office, *Building the Big Society*, London, Cabinet Office, 2010.
- Call, D., *Knowledge Management – Not Rocket Science*, *Journal of Knowledge Management*, 9 (2), 19-30, 2005.
- Cameron, D., *Big Society Speech*, London, Press Office, 2010.
- Crawford, C., *The Local Governance of Crime: Appeals to Community and Partnerships*, Oxford, Clarendon Press, 1997.
- Davis, A., *Living with Cuts to Public Services: How Can We Get More for Less*, *Journal of Public Health*, 32 (3), 310-311, 2010.
- Delli Carpini, M. X. Cook, F. L. and Jacobs, R. L., *Public Deliberation, Discursive Participation, and Citizen Engagement: A Review of the Empirical Literature*, *Annual Review of Political Science*, 7, 315 – 344, 2004.
- Filstead, W., *Qualitative Methodology*, Chicago, Markham Publishing Company, 1971.

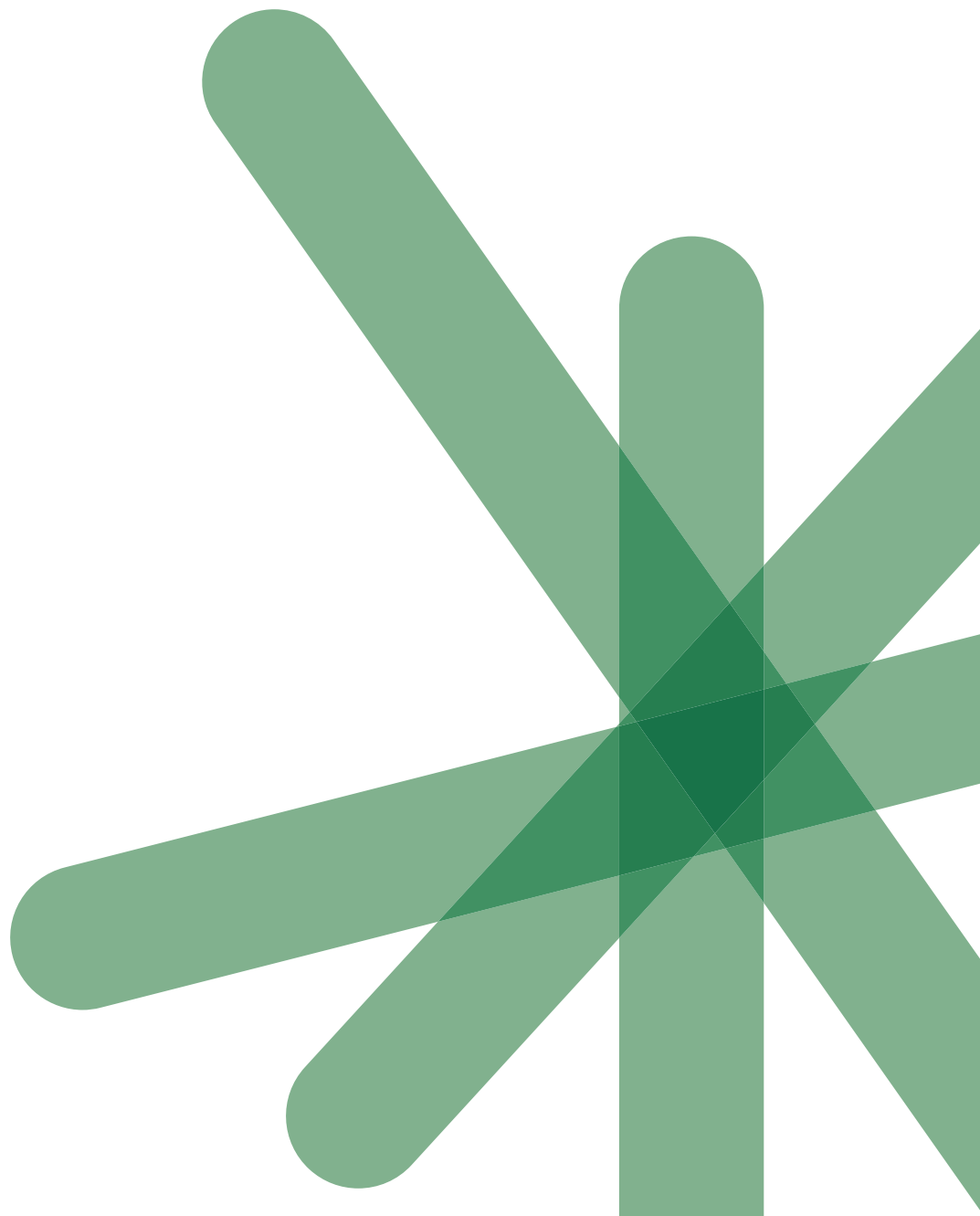
- Flanagan, R., *A Review of Policing – Final Report*, London, Stationery Office
- Garland, D. (2002) *The Culture of Control: Crime and Social Order in Contemporary Society*, Oxford, Oxford University Press, 2008.
- Gravelle, J. and Rogers, C., *New Technology: Consider the Human Factor*, Policing Today, 16 (2), 26-27, 2010a.
- Gravelle, J. and Rogers, C., *Policing in the Big Society*, Police Professional, 223, 14-16, 2010b.
- Gravelle, J. and Rogers, C., *Changing Policing – Time for a Little Reflection?*, Police Professional, 252, 13-15, 2011a.
- Gravelle, J. and Rogers, C., *The Big Society's Big Mistake*, Policing Today, 17 (1), 32-36, 2011b.
- Her Majesty's Inspectorate for the Constabulary, *Calling Time on Crime: HMIC Thematic Report*, London, HMIC, 2000.
- Her Majesty's Inspectorate for the Constabulary. (2005) *First Contact: A Thematic Inspection of Police Contact Management*, London: HMIC, 2005.
- Her Majesty's Inspectorate for the Constabulary, *Basic Command Unit Inspections*, 2009.
- Her Majesty's Inspectorate for the Constabulary, *HMIC Response to Consultation on Value for Money Profiles*, 2010a.
- Her Majesty's Inspectorate of Constabulary, *Valuing the Police: Policing in an Age of Austerity*, London, HMIC, 2010b
- Hirschel, D., Wakefield, W. and Sasse, S., *Criminal Justice in England and the United States*, 2nd Edition, Canada, Jones and Bartlett Publishers, 2008.
- Holdaway, S., *Inside the British Police: a Force at Work*, Oxford, Basil Blackwell Publisher Limited, 1983.
- Home Office, *The Police Act 1964*, London, Stationery Office, 1964.
- Home Office, *Local Government Act 1974*, London, Stationery Office, 1972.
- Home Office, *Financial Management: Home Office Circular 114*, London, Stationery Office, 1983.
- Home Office, *Police and Criminal Evidence Act 1984*, London, Stationery Office, 1984.
- Home Office, *Police and Magistrates Court Act 1994*, London, Stationery Office, 1994.
- Home Office, *Crime and Disorder Act 1998*, London, Stationery Office, 1998.
- Home Office, *The Economic and Social Cost of Crime*, London, Stationery Office, 2000a.
- Home Office, *The Human Rights Act 2000*, London, Stationery Office, 2000b.
- Home Office, *Diary of a Police Officer*, London, Stationery Office, 2001.
- Home Office, *Police Reform Act 2002*, London, Stationery Office, 2002.
- Home Office, *From Policing the Local Beat to Disrupting Global Crime Networks: Reforming the Structure of Policing in the 21st Century*, London, Stationery Office, 2004a.
- Home Office, *Police (Conduct) Regulations 2004*, London, Stationery Office, 2004b.
- Home Office, *Building Communities, Beating Crime: A Better Police Service for the 21st Century*, London, Stationery Office, 2005a.
- Home Office, *Neighbourhood Policing: Your Police, Your Community, Our Commitment*, London, Stationery Office, 2005b.
- Home Office, *Serious Organised Crime and Police Act 2005*, London, Stationery Office, 2005c.
- Home Office, *Police and Justice Act 2006*, London, Stationery Office, 2006.
- Home Office. (2008) *From the Neighbourhood to the National: Policing our Communities Together*, London, Stationery Office
- Home Office, *Policing in the 21st Century: Reconnecting Police and the People*, London, The Stationery Office, 2010a.
- Home Office, *Police and Social Responsibility Act 2011*, London, The Stationery Office, 2010b
- Home Office, *The Shadow Strategic Policing*

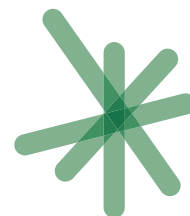
- Requirement, London, The Stationery Office, 2011.
- Ianni, E. and Ianni, F., *Two Cultures of Policing: Street Cop Management Cop*, United States, Transition Publishers, 1983.
- Millie, A. and Herrington, *Reassurance Policing in Practice: Views from the Shop Floor*, Wolverhampton, University Of Wolverhampton, 2006.
- Newburn, T., *Handbook of Policing*, Cullompton, Willan Publishing, 2003.
- Newburn, T. and Neyroud, P., *Dictionary of Policing*, Cullompton, Willan Publishing, 2008.
- Neyroud, P., *Protecting the Front Line: The Recessionary Dilemma*, Policing: A Journal of Policy and Practice, 4 (1), 1-3, 2010.
- Niederhoffer, A., *Behind the Shield: The Police in Urban Society*, New York, Doubleday and Co. Inc., 1967.
- PAW (Police Associations of Wales), *National Policing Plan for Wales 2010-2013*, Bridgend, South Wales Police, 2010.
- Rawlings, P., *Policing: A Short History*, Cullompton, Willan Publishing, 2002.
- Reiner, R., *The Politics of the Police*, 4th Edition, London, Oxford University Press, 2010.
- Reiss, A. (1992) *Police Organisation in Edwards, C., Changing Policing Theories for 21st Century Societies*, London, The Federation Press, 1999.
- Richardson, S., Dohrenwend, B. and Klein, *Interviewing: It's Forms and Functions*, New York, Basic Books, 1965.
- Rogers, C., *Crime Reduction Partnerships*, Oxford, Oxford University Press, 2006.
- Rogers, C. and Gravelle, J., *Partnership Working in the Big Society*, Safer Communities Journal, 10 (2), 26 – 31, 2011a.
- Rogers, C. and Gravelle, J., *The Lean Arm of the Law*, Public Service Review, 23, 43-44, 2011b.
- Rogers, C. and Lewis, R., *Introduction to Police Work*, Cullompton, Willan Publishing, 2007.
- Scarman, L., *The Brixton Disorders: 10th to 12th April*, London, The Stationery Office, 1981.
- Waddington, P.A.J., *Policing Citizens: Authority and Rights*, USA, Routledge, 1999.
- Wakefield, A. and Fleming, J., *The Sage Dictionary of Policing*, London, Sage, 2009.
- Wales Audit Office and Her Majesty's Inspectorate for the Constabulary, *Police Authority Inspection: Gwent Police Authority*, Cardiff, Wales Audit Office, 2010.
- Welsh Assembly, *Defining the Boundaries of the Wales Spatial Plan Areas for Statistical Data Analysis*, Cardiff, Welsh Assembly Government, 2004.
- Wilks-Heeg, S., Blick, A. and Crone, S., *How Democratic is the UK? The 2012 Audit*, available at <http://democracy-uk-2012.democraticaudit.com/2012>.
- Williamson, T., *The Handbook of Knowledge Based Policing: Current Conceptions and Future Directions*, West Sussex, John Wiley & Sons Ltd., 2008.
- Wright, A., *Policing: An Introduction to Concepts and Practice*, Cullompton, Willan Publishing, 2002.

Chapter 7

Wales and the Welfare Agenda

Victoria Winckler





Wales and the Welfare Agenda

Victoria Winckler

Introduction

The current programme of welfare reforms being introduced by the UK government is the most radical change to the benefit system to be attempted since 1946. Its sheer scale, complexity and the forecast impact on hundreds of thousands of people make welfare reform one of the most important issues facing the people of Wales today. A great deal of concern has been expressed about the possible effects of change but there has been virtually no discussion about whether devolution of legislative or executive powers might be feasible or desirable.

There are major advantages to having a social security system universally available across the whole of the UK. As well as ensuring that citizens everywhere have equal access to support based on need, the system also acts as a mechanism for the transfer of resources to areas suffering from economic disadvantage and social deprivation. Wales is one such area.

What is welfare?

Despite its widespread use, welfare is an ambiguous and contentious term. It usually refers to a range of services provided by the state which protect and support people, especially during childhood, old-age and sickness. The welfare state thus includes the National Health Service, state education, social housing and social security payments for people who have retired, are unemployed or are too sick or disabled to work. Recently, however, the term 'welfare' has come to be used to refer to social security benefits and specifically to those provided to people of working age, reflecting the US usage of the term. The rest of this paper uses the more accurate term 'social security benefits' as it is only these aspects of 'welfare' that are being considered.

Social security benefits are a complex mixture of different types of payments made to individuals and households for many different reasons. A few benefits, such as Child Benefit and Winter Fuel Allowance, were until very recently universal, paid to any eligible person irrespective of income or National Insurance contributions. Other benefits, such as the state pension and contribution-based Jobseekers' Allowance, are paid according to an individual's previous National Insurance contributions. Some benefits, the so-called income-related benefits such as Income Support or Pension Credit, are means-tested and provide 'top-ups' if a household's income is below a defined threshold. And other benefits are related to non-income aspects of need, such as Disability Living Allowance whose payment reflects the nature and extent of an individual's impairment.

Context for current policy

The UK government's Welfare Reform Act cannot be separated from the wider pressures on UK finances. The global recession and deficit in public expenditure have provided the rationale for massive cuts in spending on benefits coupled with a major restructuring of support, including breaking the links between benefits and contributions, support only for those in greatest need, and a strong emphasis on employment, irrespective of economic conditions or individual circumstances.

The Chancellor's autumn 2010 statement indicated that the UK government planned to achieve savings of £18 billion to the social security system, through a mixture of simple but highly cost-effective changes such as arrangements for indexation of benefits to much more controversial measures such as withdrawing assistance to disabled people. Some of the planned changes have been achieved through existing legislation, but it is the Welfare Reform Act 2012 which is driving through the most radical reforms.

Social security powers

The legislative powers to determine and reform social security benefits rest solely with the UK parliament – there is virtually no aspect of the social security system that is devolved.

The framework for the current social security system developed during the first half of the 20th Century and was laid out in various pieces of immediately post-war legislation, notably the 1946 National Insurance Act. From the outset the social security system was conceived of and implemented on a UK-wide basis. The underlying principle was that the state, as a whole, had responsibilities for the wellbeing of its citizens, in contrast to the pre-war, mainly local provision of assistance schemes. The post-war social security system was funded on a UK-wide basis, with benefits being paid from a mixture of National Insurance contributions and general taxation.

There have been numerous reforms of the social security system since 1946, with old benefits being renamed, new benefits introduced, eligibility rules changed and rates of payment being revised. Benefits such as Supplementary Benefit, Rent Rebate, Unemployment Benefit, to name but a few have all come and gone. But throughout the process of change, social security benefits have all, until very recently, remained UK-wide.

Not only is the legislative basis of social security almost entirely UK-based, so too is its administration. The Department for Work and Pensions (DWP) and HM Revenue and Customs together administer the social security system. They do this through large UK-wide administrative centres such as the Child Benefit Office at Washington, Durham and through local and regional offices which operate throughout Wales. Housing Benefit and Council Tax Benefit are administered by local authorities on behalf of the Department for Work and Pensions with both benefit costs and administrative costs being covered by the DWP. However, the benefit rules that are followed and the payments that are made are strictly those of the UK government.

A significant shift with the UK-wide social security system came in the Welfare Reform Act 2012. Amongst the large-scale changes to almost all benefits paid to people of working age was the transfer of responsibility for administering Community Care grants, Crisis Loans and Council Tax Benefit to the Welsh Government.

It seems that no discussion of the intended devolution of the administration of the benefits had taken place with the Welsh Government prior to the publication of the DWP's White Paper. Even in

Scotland, which appears to have had some advance warning, the specificity of the UK Government plans came as a surprise. The Welsh Government has now begun the process of establishing its own arrangements for delivering Community Care Grants, Crisis Loans and Council Tax Benefit. However, given the very short time-scales (both are to be operational from April 2013) the scope for innovation is limited.

The rationale for the transfer of responsibility is not a sudden enthusiasm for devolution on the part of the UK government, not least as the powers over these benefits remain with the UK government. It is simply the *administration* that has been devolved. It arises from the expediency of making cuts in expenditure on social security, a long-standing belief in the efficacy of charity as opposed to state provision and a newly-found commitment to 'localism'.

The social security system therefore remains firmly the responsibility of the UK Government, and as a key part of the Coalition Government's agenda, is likely to remain so for some time to come. Indeed, as will be seen below, some of the reforms centralise control over the social security system even further.

The reform agenda

The UK Government came to power committed to a radical overhaul of 'welfare' on the grounds of increasing individual responsibility and ensuring fairness for everyone. In this, and almost all its subsequent references to welfare, the UK Government means social security benefits, and more specifically the social security benefits that are paid to people of working age.

Pensions and child benefit, key elements of overall social security provision and a substantial part of the social security budget, have been left relatively unscathed, although this is not to say they are completely unchanged. The Pensions Act 2011 brought forward the increase in state pension age for women to age 65 and increased state pension age for men and women to age 66 by October 2020, and eligibility rules have also changed. The value of Child Benefit was frozen for three years from April 2011 and will be gradually withdrawn from high-income households from January 2013.

However, the most radical changes to social security are being made to the myriad of benefits claimed by people of working age, and in particular to those claimed by people who are out of work or who are in employment but on a low income. As well as the very substantial change made to the value of almost all benefits made by linking increases to the Consumer Price Index rather than the Retail Price Index there is a long list of reforms to almost all individual benefits, with each benefit being subject to its own rule changes and timetable, with different arrangements for implementing the changes for new and existing claimants.

Within the changes the following key themes can be identified:

1. Requirements on those claiming benefits as job seekers are significantly increased, as is the use and severity of sanctions.
2. All claimants of benefits on the grounds of incapacity will be reassessed by the Work Capability Assessment, with about four out of ten being found to be ineligible to claim. Amongst those who are eligible, contributory Employment and Support Allowance will be limited one year, with non-contributory benefits being means tested.
3. All claimants of Disability Living Allowance will be reassessed for Personal Independence Payment and only the most severely disabled will qualify for the higher rate of payment.
4. Lone parents whose youngest child is aged 5 years will be required to seek employment.

5. The number of hours of work required to be eligible for Working Tax Credit has increased, the income above which credit cannot be claimed has reduced and the taper on withdrawal of credit has increased, and the rate at which help with childcare is given has gone down.
6. Housing Benefit is limited to the cheapest 30 per cent of rents and capped according to the type of accommodation, is restricted to shared accommodation for people aged under 35 years and is limited to accommodation of appropriate size (the so-called bedroom tax).
7. Council Tax Benefit is being reformed although the nature of the changes is not yet clear.
8. A cap on the total amount of benefit that can be claimed by a household of £500 a week for couples (£350 a week for single people) is to be imposed.

All these benefits, except the new Personal Independence Payment, will be replaced by Universal Credit, a new and simpler single benefit, which will be gradually rolled out from 2013. Universal Credit will replace not only those working age benefits administered by DWP local offices, such as Jobseekers' Allowance and Employment and Support Allowance, it will also replace the locally administered Housing Benefit. Details of Universal Credit had not been finalised at the time of writing.

Impact of social security reforms

There is no doubt whatsoever that the UK Government's social security reforms will have a massive impact on people in Wales, if only simply because of the sheer numbers of people who receive social security benefits. Table 1 shows that Child Benefit was paid for 642,210 children in Wales as at August 2011, and a further 641,150 claimed State Pension as at February 2012. This 1.2 million people receiving child and old age benefits is more than a third of the population.

A further significant number are people of working age who receive one or more benefits. Altogether 18.9 per cent of the Welsh population – 358,340 people – claimed at least one working-age benefit such as Jobseeker's Allowance, Incapacity Benefit/Employment and Support Allowance, Disability Living Allowance or Income Support. More than 300,000 families claim Working Tax Credit, more than 250,000 people claim Housing Benefit, and more than 330,000 people claim Council Tax Benefit. Because some individuals or households claim more than one benefit (for example, Jobseekers' Allowance and Housing Benefit) the numbers cannot be added together. Nevertheless, at nearly 1 in 5 of the working age population of Wales the proportion of claimants is substantial.

Table 1: Number of Claimants of Benefits in Wales

Benefit	Number of Claimants
Child Benefit (as at Aug 2011) – number of children	642,210
Working Age Benefits (as at Feb 2012):	358,340
Jobseekers' Allowance only	80,660
IB / ESA only	62,790
IB / ESA and DLA	54,260
DLA and / or SDA only	28,680
Income Support alone or with other benefits	95,250
Other benefits e.g Carer's Allowance, Widows Benefit or other combinations	36,720
Working Tax Credit (current entitlement) (April 2012)	303,300
Of which in-work WTC	226,400
Housing Benefit (May 2012)	251,310
Council Tax Benefit (May 2012)	330,040
State Pension (Feb 2012)	641,150
Pension Credit (Guarantee element) (Feb 2012)	56,910

The impact of these changes to benefits on claimants in Wales is a moot point. The UK government argues that the changes will provide incentives to get more people into work, protect the most vulnerable in society and be fair to taxpayers and claimants. It is of course too early to assess the effect of what is a long-term programme of reform, although there are some indications of initial impacts.

Most immediately, it is clear that the reforms have already resulted in a reduction in the number of people claiming some benefits in Wales. For example, the numbers claiming Income Support have decreased by more than 15,000 since the changes affecting lone parents took effect in November 2011, whilst the numbers claiming Incapacity Benefit are down by more than 25,000 since February 2011 when the Work Capability Assessment was introduced.

In the medium term, that is up to 2014-15, there is evidence that the combined effect of changes to social security benefits and taxation will be for households in Wales to lose, on average, 4.1 per cent of their income by 2014-15, equivalent to £1,110 a year. This is a higher proportion of household income than the UK average, although by no means the highest of UK nations and regions.

The changes have a different impact on different types of household. The Institute for Fiscal Studies has estimated the effect of tax and benefit changes on various types of households and found that the following are most adversely affected in 2014-15:

- Families with children, which lose just over 6 per cent of their income, compared with just under 3 per cent for households without children and less than 2 per cent for pensioners.
- The poorest 10 per cent of families with children, which lose 10 per cent of their income, approximately £1,800 a year.
- Workless families (both lone parent and couples), which lose 11-12 per cent of their incomes, approximately £2,410 - £2,800 a year.

- Families with two or more children, which lose 6-10 per cent of their income. Households with children aged under 10 years lose more than households with older children.
- Families with children living in rented accommodation, which lose about 9 per cent of their income in 2014-15.

Given the relatively high levels of reliance on social security benefits in Wales and the substantial impact on household incomes by 2014-15, it is not surprising to note that the Institute for Fiscal Studies forecasts sharp increases in poverty in Wales, particularly in child poverty. In the two years between 2012-13 and 2013-14, relative child poverty is estimated to increase by 23,000 and absolute child poverty to increase by 26,000. Smaller increases are expected in both relative and absolute poverty amongst working age childless adults. These forecast increases in both relative and absolute poverty come after more than a decade of gradual decline in poverty amongst all groups of people in Wales.

The changes will affect some parts of Wales more than others, with those with already high levels of benefit claims, notably the south Wales Valleys and inner Cardiff, Swansea and Newport.

In the longer term, the effects of changes to social security will depend on the strength of the wider economy and labour market, and the various ways in which people and employers adapt to the changes. It may indeed be the case that individuals are incentivised to work and employers are encouraged to recruit, although the economic prospects for Wales and the UK as a whole do not look particularly bright at the time of writing.

The UK Government's changes to the social security system will have far-reaching consequences for the people of Wales. The vast majority of children and people over retirement age receive Child Benefit or the State Pension, whilst nearly one in five people of working age receive a major benefit such as Job Seekers' Allowance, Incapacity Benefit/ESA or Disability Allowance. Hundreds of thousands more receive Working Tax Credit, Housing and Council Tax Benefit. The changes combined with the taxation system mean that on average households in Wales will lose 4 per cent of their income. However, the poorest households and families with children lose the most – more than 10 per cent of their income in some cases. Hardly surprisingly, the changes are expected to result in significant increases in poverty especially child poverty.

Welsh Government objectives

The current Welsh Government is firmly committed to achieving fairness and prosperity in Wales, albeit with a somewhat different interpretation of 'fairness' to that of the UK government. However, the Welsh Government's ability to achieve its objectives is strongly shaped by the changes being wrought by changes to the social security system. These risk undermining Welsh Government's objectives, both specifically to eradicate poverty as well as more widely.

In terms of poverty, the Welsh Government has adopted the former UK government's objective of eradicating child poverty by 2020. It also has the less specific aim of "reducing poverty, especially persistent poverty amongst some of our poorest people and communities". It has implemented a raft of initiatives to try to reduce the incidence of poverty, prevent the risk of people becoming poor and to mitigate the effects of poverty.

If the forecast impact of social security reform on poverty is realised, the UK government's changes will significantly undermine the Welsh Government's attempts to reduce and eradicate poverty

and especially child poverty. The predicted increases in child poverty amount to approximately 10 per cent of the number of children currently in poverty, and could see the proportion of children in low-income households reach levels not seen since the mid 1990s. The Welsh Government would need an unprecedented achievement to counter the effect of social security reform. The predicted increases in poverty amongst adults are less dramatic, but would nevertheless adversely affect the Welsh Government's efforts to reduce poverty in general.

The forecast impact of social security reforms is also likely to affect the Welsh Government's targets to eradicate fuel poverty amongst all households by 2018. Although household incomes are only one factor in fuel poverty (the others being energy costs and energy efficiency of the home), the predicted squeeze on households which already have low incomes and on those with children will almost certainly tip some households into fuel poverty and drive others in even deeper.

The reforms could also affect the Welsh Government's aims of increasing employment. Whilst the UK government argues that the changes will provide incentives to work, the willingness and ability of benefit claimants to enter the labour market is likely to depend as much on the wider economic climate, and in particular the availability and suitability of jobs, as it does on changes to the benefit system. Indeed, the Institute for Fiscal Studies estimates that the reforms could *reduce* the incentive to work amongst couples with children and that they are also likely to reduce the incentive to work for a second earner in a couple household, whether or not they have children. Families with children are a key group that the Welsh Government wishes to encourage into employment, so the disincentive brought by the new social security system could undermine this objective. Similarly, the income of a second earner in a household can be a key factor in lifting incomes above the poverty threshold so the disincentive for more than one member of a household to work is also a concern.

In addition, the areas within Wales that are most likely to be affected are those which are subject to Welsh Government regeneration programmes - the success of such programmes could be affected by the loss of income from the locality.

There is also some evidence on the likely impact of social security reform on the Welsh Government's housing objectives. Most obviously, its aim of reducing homeless to a minimum by 2019 could be jeopardized as a number of commentators have forecast a shortage of housing that is affordable by people claiming Housing Benefit. It is also suggested that the 'bedroom tax' could result in an increase in overcrowding. There are also anticipated to be significant difficulties providing affordable social housing as the income received by registered social landlords falls, limiting their ability to invest in new stock.

It is more difficult to forecast the implications of social security reform on other Welsh Government objectives not least because the association between welfare reform, likely increases in poverty, and the achievement of other objectives is less direct although no less powerful for that. Nevertheless, there is a clear and well-established relationship between poverty and ill-health, and between poverty and low educational attainment and participation. Substantial increases in poverty could thus adversely affect the Welsh Government's ambitions to improve the health and educational attainment of the people of Wales.

Other forecast impacts include an increase in criminal behaviour, an increase in stigma and discrimination against disabled people. If realised, these outcomes would also affect the Welsh Government's ability to achieve its objectives in respect of safer communities and equality.

Devolution of social security powers

Although the Scottish Government and a number of civil society organisations are calling for the devolution of powers over most aspects of the social security system to be devolved to the Scottish Parliament there has not been a similar campaign for devolution of social security powers in Wales. Devolution of these powers would raise significant issues of policy, capacity and finance.

In policy terms, devolution of powers over social security could bring the prospect of achieving a closer alignment between policies on benefits and policies on, for example, poverty, employment and health, increasing the likelihood of the Welsh Government achieving its objectives. The opportunity for greater synergy between social security and other policy areas is especially great where the UK and Welsh governments are a different political colour and have differing, and indeed potentially conflicting, aims.

However, there is a significant gap between arguing that devolution of social security *could* bring advantages and a worked-through position showing that it *would* bring advantages. Despite criticism of many aspects of the UK Government's social security reforms, alternative proposals are conspicuous by their absence in Wales (as indeed in the rest of the UK). Even though many of those campaigning against change recognise that the previous system was far from adequate, they are forced into defending the status quo because they are unable to offer anything better. In the absence of an indication of the difference devolution would make any case for change is hypothetical.

One of the reasons for the absence of alternatives to current social security reforms is a lack of capacity for policy development on the issue within Wales. The Welsh Government has had no reason to devote resources to a non-devolved issue, other than to monitor its possible impact. Whilst the third sector has been more active in identifying the threats of social security reform to people and communities, it too has lacked resources to develop an alternative agenda specific to Wales. Indeed with the size of the threat and the apparently remote prospect of devolution of social security to Wales means that there is no reason for anyone in Wales to invest time and money in developing an alternative approach.

That said, there is without doubt scope to develop a social security system that is more consistent with and closely aligned to the Welsh Government's priorities than the current system – the main issue is the resource and expertise to do so.

Although policy capacity may be thin, delivery capacity is somewhat less so. The Welsh Government itself has no resources to administer a devolved social security system – in fact it has already determined that even the relatively modest demands of delivering Community Care Grants and Crisis Payments should be outsourced to an independent organisation. However, the DWP does have administrative capacity in Wales, with nearly 7,000 civil servants carrying out a range of benefit-related functions in 2011. In addition, local authorities have some capacity amongst staff administering Housing Benefit. Unison estimates that across Britain about 20,000 staff work on Housing Benefit suggesting that, pro-rata, about 1,000 staff do so in Wales. The role of local Housing Benefit staff will disappear with the introduction of Universal Credit from 2013.

The most important issue associated with the devolution of the social security system is its cost. In 2010-11, the Department for Work and Pensions spent a total of £8.4 billion on benefits in Wales (see Table 2 for a breakdown), with additional, unfortunately unknown, sums being spent by HMRC on Child Benefit and Working Tax Credit. Expenditure per head on DWP benefits is higher than the UK average, at an estimated £2,337 compared with £1,895 in 2008-09.

To put this sum in context, the DWP's expenditure on benefits is more than half the Welsh Government's 2012-13 revenue budget, and is slightly higher than its current expenditure on health, social services and children of £6 billion. However, if the State Pension and Maternity Pay are removed from expenditure, as envisaged by those campaigning for devolution of benefits in Scotland, the remaining expenditure on benefits (excluding Child Benefit and Working Tax Credit) is almost halved to £4,662 billion. In other words, current expenditure on benefits would, if devolved either wholly or partially, comprise a large part of the Welsh Government's expenditure. At the same time, it would not be so large that it would dwarf the budget, particularly if expenditure on pensions and statutory maternity pay was excluded.

Table 2: Expenditure by Department for Work and Pensions on Individual Benefits, Wales, 2010-11

Benefit	Expenditure (£ million)
Attendance Allowance	388
Bereavement & Widows benefits above State Pension Age	30
Bereavement and Widows below State Pension Age	2
Carers' Allowance	100
Council Tax Benefit	238
Disability Living Allowance	925
Employment and Support Allowance	147
Housing Benefit	893
Incapacity Benefit / Severe Disability Allowance	521
Income Support	456
Jobseekers' Allowance	224
Pension Credit	494
State Pension	3,631
Winter Fuel Allowance	151
Statutory Maternity Pay	98
Maternity Allowance	16
TV licence	30
Industrial Injury Benefit	63
Total	8,407

Most important is the question of how any transfer of powers and responsibilities for benefits would be funded. It can in no way be assumed that current budgets would be devolved at the same time as any powers. For example, experience with the transfer of responsibility for support with Council Tax is that funding is being substantially cut alongside the transfer of responsibility - by at least 10 per cent though provisional figures suggest a cut of up to 20 per cent.

The alternative of covering benefit payments with income raised from National Insurance and taxation in Wales would also be very challenging. Holtham estimated that a total of £17.1 billion was raised from various taxes in Wales in 2007-08, of which £8.9 billion is income tax and National Insurance contributions. The current Welsh Government budget plus the main out-of-work and income-related DWP benefits alone are greater than the total income generated by taxation. If

state pensions, statutory maternity pay, Child Benefit and Working Tax Credit are included, Wales's benefit expenditure could well exceed current taxation income by about 50 per cent. Funding current levels of social security payments from tax and National Insurance contributions generated within Wales is, bluntly, out of the question.

Conclusion

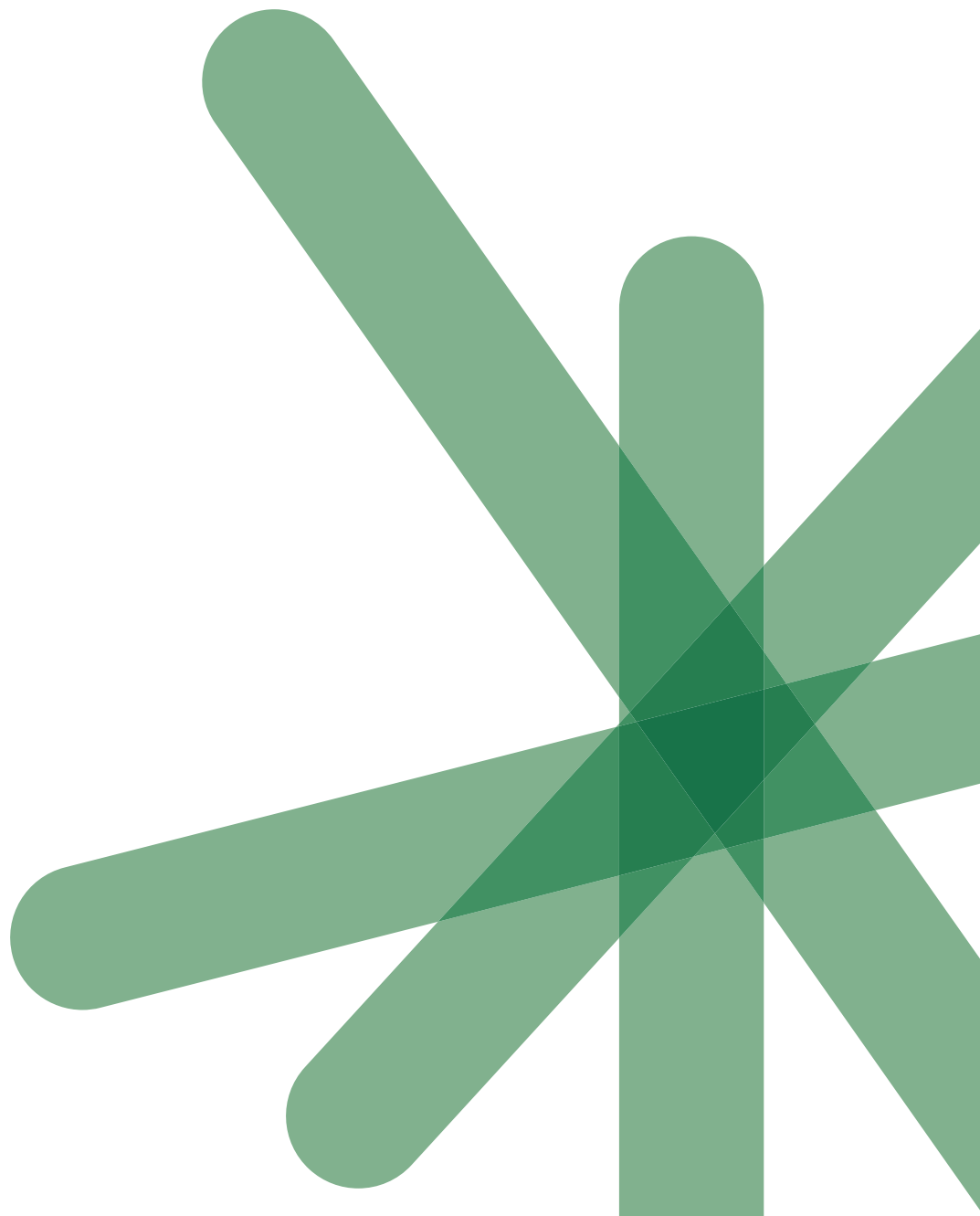
The UK government's reforms of the social security system will have far-reaching and potentially damaging consequences for hundreds of thousands of people in Wales. Levels of poverty are likely to rise sharply and there could well be knock-on effects for other policy areas including housing, health, education, employment and so on which risk undermining the Welsh Government's ability to achieve its objectives.

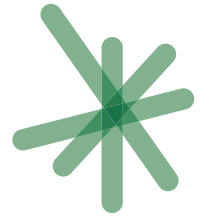
The current social security system was established as and remains a UK-wide system not withstanding the recent changes to Council Tax Benefit and aspects of the social fund. The question of funding social security expenditure in Wales is a major stumbling block to any devolution of powers. No matter how great the merits of matching policy on benefits with other objectives, no matter how large or small is policy and administrative capacity in Wales, unless and until a way is found to fund Wales's high levels of expenditure on social security benefits there can be little prospect for devolution of social security in the short to medium term.

Chapter 8

The European influence in Wales

Francesca Dickson





The European influence in Wales

Francesca Dickson

Introduction

This paper is based on a series of interviews with ten individuals closely engaged with the development of European Union policy in Cardiff Bay. In addition a comprehensive review was undertaken of official documentation, as well as a variety of literature on multi-level governance, paradiplomacy and inter-governmental relations. The paper focuses on the following issues:

- The ability of the Welsh Government to engage effectively with government at the UK level
- Constitutional anomalies arising from what has been called the 'Bridgend question', due to UK Ministers speaking on matters that are wholly devolved to Wales
- The effectiveness of the National Assembly in scrutinising the Welsh Government's EU-related activities
- The ability of the National Assembly to maintain a strategic approach to the EU in the absence of a specialised committee.

In the course of preparing the paper, several themes that were raised that have been cited elsewhere in work commissioned by the Changing Union project. In particular, concerns were expressed regarding the size of the National Assembly, the role of the media, the capacity of some civil society groups, and the attitude of the UK Government towards Wales under conditions of party-political incongruence.

EU legislation

The Government of Wales Act 2006 makes it clear that any EU obligation of the UK Government is a Welsh obligation where it applies to devolved functions; and thus Wales must ensure that it is in compliance with all relevant European legislation. The concordat on EU policy issues specifies that any financial costs and penalties imposed by the EU for failure to implement legislation will be borne by the devolved administration. Wales has three main responsibilities as regards European legislation:

1. Implementing EU directives made in areas within its competence.
2. Complying with all EU laws that come within the scope of the National Assembly's legislative powers and the functions of Welsh Ministers.
3. Subsidiarity monitoring - reporting any issues to the Westminster Parliament.

There are three types of European legislation that Wales is required to implement: regulations,

directives and decisions. Alongside these legislative instruments, the EU is also able to issue non-binding instruments such as recommendations and opinions, which are classed as 'non-legislative acts', despite the fact that they can, in fact, be legislative, that is to say, broadly corresponding to secondary legislation. The number of non-legislative acts vastly outweighs that of legislative acts, and they thus form an important part of the broader regulatory environment within which Wales operates (National Assembly for Wales, 2011).

Estimates on the percentage of national legislation which is 'Europeanized' vary wildly. Some commentators have suggested that across the EU as a whole, the figure is somewhere between 60-80 per cent. However, more recent, detailed studies have shown that between 1997 and 2009, within the UK, 6.8 per cent of primary legislation and 14.1 per cent of secondary legislation "had a role in implementing EU obligations, although the degree of involvement varied from passing reference to explicit implementation" (House of Commons, 2010).

Accurate data for Wales is not readily accessible. But, given the extent of Wales's powers over key EU areas such as agriculture, the UK figure for secondary legislation (14.1 per cent) is likely to be the baseline for the amount of Welsh legislation with European origins, with the potential for this figure to be higher for that very reason. Data from the Committee of the Regions demonstrates that roughly 70 per cent of European legislation has a direct regional and local impact, which goes some way to demonstrating the interest that regional governments have in the European policy process.

It is not possible within the scope of this paper to list the European legislation that impacts on the policy areas being considered by the Changing Union project. Suffice it to say, however, that there is a pronounced European dimension to transport, policing, energy and broadcasting, although not of welfare. As emerged from the expert seminars held to examine the other papers in this study, there are examples of this influence in the following fields:

- Transport, where minimum safety standards are determined largely at the European level.
- Broadcasting, where EU state-aid legislation may limit the scope for some interventions in public-service broadcasting.¹
- Agriculture, where there are numerous European directives and regulations related to the CAP.

Funding

Wales has a significant interest in a number of European funding streams. The most valuable of these come under the banner of structural funds, which encompass the European Social Fund and the European Regional Development Fund. The delivery of EU structural funds programmes is managed by the Wales European Funding Office (WEFO), now embedded within the Welsh Government.

As of the 31st October 2012, a total of 275 projects have been awarded EU funds amounting to £1.8 billion, which, when match funding is included, represents a total investment of £3.72 billion. As the only remaining regions with eligibility under the EU's convergence Objective '1' criteria are Cornwall and the Isles of Scilly, and West Wales and the Valleys, the Welsh Government has a sizeable incentive to ensure continued support for this funding stream at the EU level. It is not surprising, therefore, that it has been particularly active in the lead-up to the negotiations over the next multi-annual financial framework (MFF) and separate negotiations over reform of the EU's cohesion policy.²

In addition to the structural funds, Wales receives funding from the CAP to a tune of roughly £400 million per annum. Certainly there is a high level of dependency on this funding in rural Wales. In 2009, the single farm payment accounted for around 80 per cent of all farm income in these areas.

Other competitive funding schemes have been utilised by the Welsh Government: for example, Wales has an interest in Horizon 2020, the Connecting Europe facility and the framework research programme (under which Wales secured £33 million under the first three years of the 2007-13 programme).

There are important questions to be asked about the way that these funds have been used by Wales, and indeed the prospects for such funding to be secured in future given the UK Government's stance over the EU budget. These questions are largely beyond the scope of this paper, but would benefit from a separate study, particularly considering the broader questions around the Welsh Government's record on economic development. Additionally, a report by Rhodri Glyn Thomas, member of the Committee of the Regions, on achieving greater synergy between sub-state, member state and EU budgets was published in November 2012.³

Other stakeholders

Committee of the Regions and European Economic and Social Committee: This has an advisory function only, issuing around 50 'opinions' a year and conducting numerous stakeholder consultations and events. Wales has four members: two Assembly Members, Rhodri Glyn Thomas (Plaid Cymru) and Christine Chapman (Labour), and two members from the Welsh Local Government Association. The Committee has a broad remit, acting as an advocate for Europe's regions and ensuring a regional voice is communicated at the early stages of EU policy formation. It also has a key role with regards subsidiarity monitoring. The European Economic and Social Committee represents civil society and the private sector, having been established as a forum to discuss issues relating to the single market, with representatives nominated by the National Assembly.

MEPs: Wales has four MEPS (representing the Conservatives, Labour, Plaid Cymru and UKIP), who are its only directly elected representatives at the EU. They were regularly asked to give evidence and updates regarding their work in the Parliament to the former European and External Affairs Committee of the National Assembly. It is not clear how frequently similar meetings will take place now that the Committee has ceased to exist. However, there has been an effort on the part of the Presiding Officer to establish a link between MEPs and Committee Chairs in the Assembly.

European Commission Office in Wales: This office was established in Cardiff in 1975, following the European referendum of that year, and is the political representation of the European Commission in Wales. It has a key role in communicating the aims of the Commission to Welsh audiences and working to improve its links with Welsh institutions.

Civil Society: There are questions regarding the capacity and effectiveness of Welsh civil society to engage with Europe. Cardiff does not benefit from the same 'international' environment and supporting institutions that, for example, Edinburgh does, for example in terms of foreign consulates and embassies. Perhaps more importantly, the lack of a European Parliament representation, as exists in Edinburgh and London, impacts on the Assembly's avenues for engaging with Europe, given the executive-dominance in other inter-governmental structures. Overall, this results in a lower-profile for European issues. On the other hand, Wales' attitudes towards Europe are arguably much more positive than those found in England, with the number of European information offices in Wales evidence of this desire for engagement.

Some organisations are exceptionally well briefed when it comes to European issues, including (the Farming Union of Wales, the Welsh Local Government Association - which maintains its own Brussels

office - and the WCVA). On the other hand others are almost entirely unaware of the avenues for policy influence at the European level or the relevant implications of EU policy for their field.

Overall, the private sector in Wales is largely notable for its absence from engagement with the European dimension. Yet, given the increasing importance of European markets in terms of trade, this is an area that needs to be developed. The media's lack of European coverage is also seen as a blockage in the wider engagement of Welsh society in EU affairs (though, of course, this is also a UK-wide issue).

Strategies for influencing EU Policy

The legitimacy of a Welsh interest in EU policy was acknowledged in the White Paper on Welsh devolution in 1997. Since that point the Welsh Government and the National Assembly have developed a fairly 'bold' approach towards engaging with the EU, particularly in terms of establishing direct relationships with European institutions. Broadly speaking, both the Welsh Government and the National Assembly (at political and official levels) are euro-friendly bodies, and there is a general degree of interest in and awareness of the European dimension to Welsh issues amongst Ministers and Assembly Members. This was typified by a large number of visits to Brussels in the first year of the Fourth Assembly.

Welsh Government

No single European portfolio has been created within the Welsh Government. In practice, coordination of European-related policy fell to the office of the First Minister, where it remains today (Cole and Palmer, 2011:383). In addition to this overarching strategic role, the Deputy Minister for Agriculture and European Programmes has a more targeted European remit, with responsibility for CAP and cohesion policy.

At official level, the European and External Affairs Division houses a European Policy Unit, which, together with the Brussels Office, coordinates the Welsh Government's approach to EU affairs. The role of the Welsh Government's Brussels Office is predominately one of direct engagement with European institutions, while officials in Cardiff maintain a closer focus on influencing the UK's position on European Policy.

Since 2009, the Welsh Government has produced an annual European Strategy, the most recent of which was published in May 2012.⁴ However, questions persist as to how substantive it is. There is no universal agreement on the effect that the document has had on the Government's approach to EU affairs. Within the strategy a clear effort has been made to cohere Wales' European strategy with the Europe 2020 agenda. Beyond this, two main priorities can be identified: influencing the development of policies important to Wales, and raising Wales' profile within the EU.

The Welsh Government's Brussels Office is particularly active with regards to the first priority and works closely both with the National Assembly's representation in Wales House, and also UKRep. Early intervention (at policy formation stages) was widely cited in interviews as part of the background research for this paper as a key factor in the likelihood of Welsh policy preferences being successfully incorporated into European legislation; there was some suggestion that there is greater scope for such influence before an official UK 'line' had been established.

The objective of raising Wales' profile within Europe is, in turn, linked with the aim of influencing EU policy, but there also appears to be a desire to demonstrate Wales' credentials as a progressive, outward looking young democracy.

While it is difficult to make an overall assessment of the effectiveness of the Welsh Government in directly influencing European policy making, and its capacity to reap the full benefit of Wales' membership of the EU, there are certain areas where Wales is particularly active, and is held in high regard by European officials, including:

- Cohesion policy - WEFO's 'simplification agenda' in particular was cited as an initiative that made it to the European 'stage'.
- The environment.
- Agriculture, where the farming connect service was highlighted, while the CAP generally is an area where there is considerable expertise within Wales).

The National Assembly

Prior to the Fourth Assembly in 2011, a European Committee and subsequently a European and External Affairs Committee had been the focal point within the National Assembly for examining developments within the EU, scrutinising the Welsh Government's European activities and pursuing key proposals. However, a restructuring of the National Assembly's Committee system led to its dissolution in 2011, with European issues being 'mainstreamed' across the Assembly as a whole, in conjunction with the new Constitutional and Legislative Affairs Committee; a fairly "radical" departure from the status quo ante.

There are potential problems with this new approach. Firstly, the lengthy remit of the Constitutional and Legislative Affairs Committee necessarily limits the time and resources dedicated specifically to EU issues. Secondly, mainstreaming the responsibility for European policy to the five 'thematic' committees of the Assembly, and to their members jointly could prove problematic. EU matters are often highly technical. Predicting the future implications of policy, and understanding how to convey Welsh preferences to the European level is not a straightforward process. Indeed, these dangers have been recognised in the approach of the Scottish Parliament. In 'mainstreaming' its EU capacity, it has designated individual EU 'reporters' on all of its subject committees to augment the work of its European and External Relations Committee.

The initial experience of the National Assembly's new system has been somewhat mixed. On the one-hand, the subject committees have been extremely active in pursuing the European dimensions of their remits. The level of expertise developed in some areas, in particular the CAP, has genuinely surprised some observers. In fact, with regards to the CAP, it was noted that the degree of Wales' direct input at the EU level meant that the process could be seen to resemble one of co-legislating. Similarly, there appears to be a sincere interest in EU affairs at both official and political levels across the Assembly. Certainly at official level, European issues have become firmly embedded across the institution as a whole.

Moreover, in some respects the new system appears to have rationalised the Assembly's European engagement, with the subsidiarity protocol now lying much more clearly within the Constitutional and Legislative Affairs Committee, and other thematic concerns being handled by the appropriate subject committee. Related to this rationalisation was the feeling that there was now much less temptation to 'pass the buck' on European issues, and that consequently greater engagement was reached across the Assembly.

An internal review of the National Assembly has also found that the mainstreaming approach is perceived to be functioning smoothly. However, any assessment of the level of activity witnessed within the Assembly must come with a caveat: this has been a particularly busy time for a whole host of issues that most directly affect Wales, and the new system was very much 'thrown in at the deep-end'. A good deal of attention was paid to ensuring that the subject committees were aware of their enhanced role, not least to head-off external criticism from those opposed to the new structure.

On the other hand, there remain a number of outstanding issues, which may represent ongoing problems. Now that the policy-influencing stage of these activities is coming to an end, will there be less urgency to interactions with the EU? There are concerns, from almost all corners, that the strategic engagement which was a feature of the European and External Affairs committee's approach may not be maintained in its absence.

As it stands, much of this work (in terms of forward-planning) is being carried out by the Assembly's Brussels office, which in itself represents one of the more novel features of the Assembly's approach to European engagement. The National Assembly is the only regional legislature in the UK to maintain a representation. It is difficult to dispute the fact that this office has been a proactive force in terms of Wales' influence on European policy. In many respects, it also fulfills the coordinating role previously occupied by the European and External Affairs Committee.

The National Assembly's scrutiny of EU affairs is also an area where relatively informal structures predominate. Indeed, there does not appear to be an equivalent level of emphasis, on the part of individual AMs or committees, placed on scrutiny of the Welsh Government's European activities as exists in the Scottish context. The 'model' that European scrutiny follows in Wales is qualitatively different from that which exists in Scotland and at Westminster. In Wales, the importance of other roles, such as encouraging participation and debate around European issues, and contributing directly to the EU policy process, is more easily evidenced in Assembly documentation than its European scrutiny process.

Two potential avenues for improving the ability of the Assembly to scrutinise European issues have been suggested. The first was the new Committee for the Scrutiny of the First Minister, which was established in May 2012. The Committee met for the first time in November 2012, and is chaired by the Deputy Presiding Officer, David Melding. European issues are logically part of this new committee's remit, and two issues have emerged as potential future scrutiny topics:

1. International relations and promoting Wales abroad, including relations with the UK government.
2. Future European funding and relationships with Europe and the UK Government.

Quite how effective this committee will be is difficult to foresee. It will depend to a large extent on the pro-activity of the committee members. However, the fact that the committee is due to meet only once a term, combined with its lengthy remit, necessarily limits its European focus.

A second avenue for scrutiny is to use plenary sessions to hold the Welsh Government to account on European matters. However, this has happened rarely to date.

Inter-governmental relations

The current mechanisms for intergovernmental relations are largely informal and un-codified, reflecting the nature of the relationship between Whitehall and the Welsh Office pre-devolution. But there is no

doubt that European issues loom large. Guidelines are laid out in a concordat on the EU, enumerating specific procedures for the Welsh interest to be incorporated into the UK's European policy. These include scope for Welsh ministers to attend Council meetings as part of the UK representation.

In addition, JMC(E) is by far the most frequently used joint ministerial committee, and was the first to be used consistently to fulfil its proper function. In the words of one participant, this reflected the fact that there was "a real need to be met" (Gallagher, 2012:201).

The key channel of influence for Wales in the EU arena has traditionally been through direct dealings with the UK government. From a comparative perspective, the devolved regions have a high degree of access to the UK's EU policy making machinery, although this access is also highly conditional (Bulmer et al., 2006). The political incongruence between Wales and Westminster since 2010 therefore poses a threat to such access. Inter-party relations represented a key mechanism for the devolved regions to communicate their policy preferences to the UK government, and from there to the EU (Cole and Palmer, 2011:384). In the context of largely informal mechanisms of inter-government relations, the loss of this influence may be felt particularly acutely.

This is a double-edged-sword for the Welsh government. Not only are Wales' EU policy preferences likely to increasingly diverge from those of the UK under the current government formations, but they are also unable to use informal, intra-party links to influence EU policy development in London. This situation was publically highlighted by Carwyn Jones in a speech to the London School of Economics in November 2012.⁵

It should be noted that both academic and practitioner opinion is divided over the extent of the challenge to Wales' EU policy capacity by governmental incongruence (Cole and Palmer, 2011:386). However, there is evidence to suggest that the challenge is indeed a significant one. Recent comments by Carwyn Jones, identifying a 'Bridgend problem', mark a departure from the norm of 'behind-closed-doors' dispute resolution. The First Minister perceived an inconsistency in the situation that, in areas wholly devolved to Wales, such as agriculture, it was (by implication) the de facto English Minister who represented the UK's position in EU negotiations. Both the nature of the problem identified, and the way in which it was publicly articulated, are significant indications that inter-government relations over EU matters have altered. Alongside full incongruence since 2010, the implications of the successful 2011 referendum have also contributed to this new scenario.

There has been a "marked deterioration" in Wales-UK inter-government relations as a whole in the wake of full incongruence, one that is particularly manifest at the political, as opposed to the official level (Wyn Jones and Royles, 2012). An example of this deterioration in the EU domain was seen in the very public reaction by administrations in Wales, Scotland and Northern Ireland to David Cameron's veto of a recent EU treaty. For instance, Carwyn Jones argued that, in the decision making process leading up to the summit, the UK central government had sidelined Wales, and that as a result Wales' "national interest" was harmed.⁶ A similar theme was articulated by the First Minister in November 2012, when he lamented the prospect of a referendum on EU membership as proposed by Conservative MPs.⁷

There is a fairly broad recognition that there is, indeed, an issue with regards to relations between both the Assembly and Welsh Government and the UK Government (though relations with other legislatures throughout the UK, including the Westminster parliament, were deemed to be 'very good'). In particular, it appears that the Treasury is increasingly adopting a policing role with regards to the activities of devolved governments in European matters. Having said this, there was also a view that the UK government were aware of the potential for problems under incongruence, and

have been careful to adopt a positive attitude towards the devolved institutions in formal settings. Indeed, it seems that incremental improvements are being made in this regard. It is possible that the public reaction by devolved administrations to the lack of consultation around the EU veto in December 2011 was a spur to greater engagement.

There have been instances where Wales has been successful in influencing the UK's position on EU issues, for example over the protection and promotion of minority languages or cohesion policy (Cole and Palmer, 2011:84). However, this has tended to be in relatively uncontroversial cases, where the UK government has little interest. Given that Wales now has a far greater degree of domestic legislative competence, and in the context both of full political incongruence and a climate of austerity, there may well be increasing instances where the policy preferences and raw interests of the Welsh and UK governments differ more fundamentally. Indeed, the structural funds are now a good example.

Without any changes to the formal structures of inter-government relations - which, in any event are 'binding in honour' only, and not legally enforceable - this may have serious implications for Wales' ability to achieve its European policy objectives. Essentially, Welsh input into the UK's EU policy is premised on the goodwill of both governments (Bulmer et al., 2006:86). This was a condition that was met much more easily in the relatively benign climate that typified the years leading up to 2010.⁸

A comparative perspective

Europe

Wales has a relatively high degree of influence as a region of the EU based on its traditional level of access to the UK government. It is also influenced by European policy to a considerable extent, due to its degree of legislative competence as a 'constitutional' region. Official competence over EU policy is very rarely devolved to the regional level in European Member States. Nonetheless, almost all European regions have sought out a presence in Brussels. Indeed, the UK and Belgian regions boast a privileged position in Brussels, being the only European regions with full diplomatic accreditation (Tatham, 2012:66).

Even in regions with the most extensive competencies (such as in Belgium, where regions are "compelled" by the Federal constitution to manage their own external relations, including at the EU level (Crikemans, 2010:2-3)), the nature of EU policy making ensures that, in practice, such competencies are relatively constrained in comparison to wider international relations.

England and the English regions

There is a sizeable gap between the level of devolved activity at the European level, and the representation of English regions, with the possible exception of the Greater London Authority. Recently, there appears to have been a downgrading of interactions between English regions and the EU, in large part because of budgetary pressures. Sykes and Lord (2011) have looked at this development in some detail, and argue that this downgrading has been both quantitative, a reduction in the number of collective English regional representations, and qualitative, a shift within the remaining representations away from monitoring developments in EU policy and legislation and towards a narrow focus on EU funding opportunities.

The authors report a concern amongst those involved in English representation with the prospect of 'missing something big' in terms of European legislation, and subsequently missing the opportunity

to exert influence 'before things get into print'. The fact that this downsizing has occurred within the context of a particularly active European policy environment, with negotiations over the CAP, the next multi-annual financial framework, and cohesion policy, means that, as one official put it, "things will come to a head just as we are walking away" (Sykes and Lord, 2011:494-496). There is, perhaps, an implicit warning in this example that could be applied to Wales with regard to the loss of a constant forum for EU matters.

Westminster

The focus for examining European issues at Westminster is scrutiny: both directly, of European proposals, and of the UK Government's positions and activities. The House of Lords has a European Select Committee, whose role is to hold government to account for its actions at the EU level, as well as seven sub-committees that look at specific areas of European activity.

The House of Commons has a European Scrutiny Committee, whose primary role is to scrutinise draft EU legislation with a view to influencing UK ministers on such proposals, as well as to hold UK ministers to account for their activities in the Council of Ministers. Alongside this committee sit three further European Committees, again looking at specific areas of European influence. In October 2012 the European Scrutiny Committee launched an enquiry into the European Scrutiny System in the House of Commons. There may be implications for the Welsh system of scrutiny that come out of this enquiry.⁹

Scotland and Northern Ireland

There are several differences in the approach of Scottish and Welsh legislatures when it comes to the EU. Beginning with the Scottish Parliament, the most obvious is that it articulates an overall strategy for European relations. According to the strategy:

"...the main role of the Scottish Parliament in relation to Europe is to scrutinise the Scottish Government and its engagement in Europe".¹⁰

Specifically, this comprises both direct scrutiny of the government in terms of its European priorities, with the European and External Relations Committee taking evidence from the responsible Minister on a six-monthly basis, and scrutiny of the JMC(E) process. This focuses particularly on the Scottish Government's input, taking evidence from the Minister before and after each meeting. As with the National Assembly, the Scottish Parliament undertakes direct monitoring and scrutiny of draft European legislation, pursuing an approach of early engagement.

As mentioned previously, the Scottish Parliament retains a European and External Relations Committee which acts as an 'informed and competent conduit' for the thematic committees and horizon-scans on behalf of the Parliament. There are also designated EU 'reporters' on each of the subject committees. Unlike Wales, however, the Scottish Parliament does not maintain its own Brussels representation (though the Scottish Government's representation does have additional capacity when compared to Wales, with 15/16 to 9 members of staff respectively). Whether or not this means that they are less able to directly influence emerging EU legislation is a question that is beyond the scope of this paper. However, it is worth bearing in mind when making a comparison between the approaches of the two legislatures.

As a whole, the Scottish Parliament has a more strategic approach to European affairs than the National Assembly, particularly focused around scrutiny of the Executive branch and the JMC(E)

process. This may, of course, have both positive and negative implications for their overall engagement with European issues.

The Scottish Government has frequently called for greater authority over its EU policy, particularly following the SNP's victory in the 2011 elections. Specifically, they have argued for the Memorandum of Understanding to be amended to remove the requirement for Scottish Ministers to write to the UK Government asking permission to attend EU meetings as part of the UK delegation. More generally, the Scottish Government has called for greater involvement in the process of reaching an agreed UK 'line'. As of the end of 2012, the UK Government had yet to respond to these proposals, prompting some suggestion that there had been a 'hardening' of its attitude towards these issues.

Northern Ireland has not been as active as either Scotland or Wales in its European engagement. It has never had a dedicated European committee. Instead, responsibility in the Northern Ireland Assembly lies with the Committee for the Office of the First Minister and Deputy First Minister. As with the Scottish Parliament, the Assembly does not maintain its own Brussels representative.

Conclusion

The Welsh authorities recognise the importance of the European context, particularly as regards the direct benefits of European funding and areas with a pronounced impact on Welsh policy such as the CAP. The approach of both the executive and legislative branches in Wales has evolved to focus increasingly on 'up-streaming' their policy preferences. There are, however, a number of outstanding issues:

1. The capacity of the Welsh Government to play a role in the UK's European policy formation, particularly with the differences in the political colour of the governments at either end of the M4 since 2010. Of great relevance here is the largely informal structures of inter-governmental relations.
2. The ability of the Assembly to maintain a strategic focus on EU affairs in the absence of a dedicated committee.
3. The nature of the Assembly's scrutiny of European issues, particularly with regards to the Welsh Government's activities and relations with their UK counterparts. This appears to be less developed, or at least formalised, than either the Scottish and Westminster Parliaments.

It would not be accurate to conclude that the Welsh Government and National Assembly are any less 'engaged in Europe' than are Scottish or UK institutions. Rather, this engagement is qualitatively different. Particularly evident in the approach of the National Assembly, the focus seems to be very clearly on direct engagement with European institutions.

References

- Bulmer, S., Burch, M., Hogwood, P. and Scott, A., 'UK Devolution and the European Union: A Tale of Cooperative Asymmetry?', Publis: *The Journal of Federalism*, 36(1), 75-93, 2006.
- Cole, A. and Palmer, R., 'Europeanising Devolution: Wales and the European Union', *British Politics*, 6(3), 379-96, 2011.
- Criekemans, D., *Foreign Policy and Diplomacy of the Belgian Regions: Flanders and Wallonia*, Discussion Papers in Diplomacy, Netherlands Institute of International Relations, 2010.
- Gallagher, J., 'Intergovernmental Relations in the UK: Co-operation, Competition and Constitutional Change', *British Journal of Politics and International Relations*, 14(2), 198-213, 2012.
- House of Commons, *The European Scrutiny System in the House of Commons*, Department of the Clerk of the House, 2010.
- National Assembly for Wales, *European Union Legislation and Wales*, National Assembly for Wales Research Service, 2011.
- Sykes, O. and Lord, A., 'Wither a Europe of the (English) regions? Reflections on the prospects for the representation of English territorial interests in Europe', *Local Economy*, 26(6-7), 486-99, 2011.
- Tatham, M., 'Paradiplomats Against the State: Explaining Conflict in State and Substate Interest Representation in Brussels', *Comparative Political Studies*, 46(1), 63-94, 2012.
- Wyn Jones, R. and Royles, E., 'Wales in the World: Intergovernmental Relations and Sub-state Diplomacy', *British Journal of Politics and International Relations*, 14(2), 250-69, 2012.

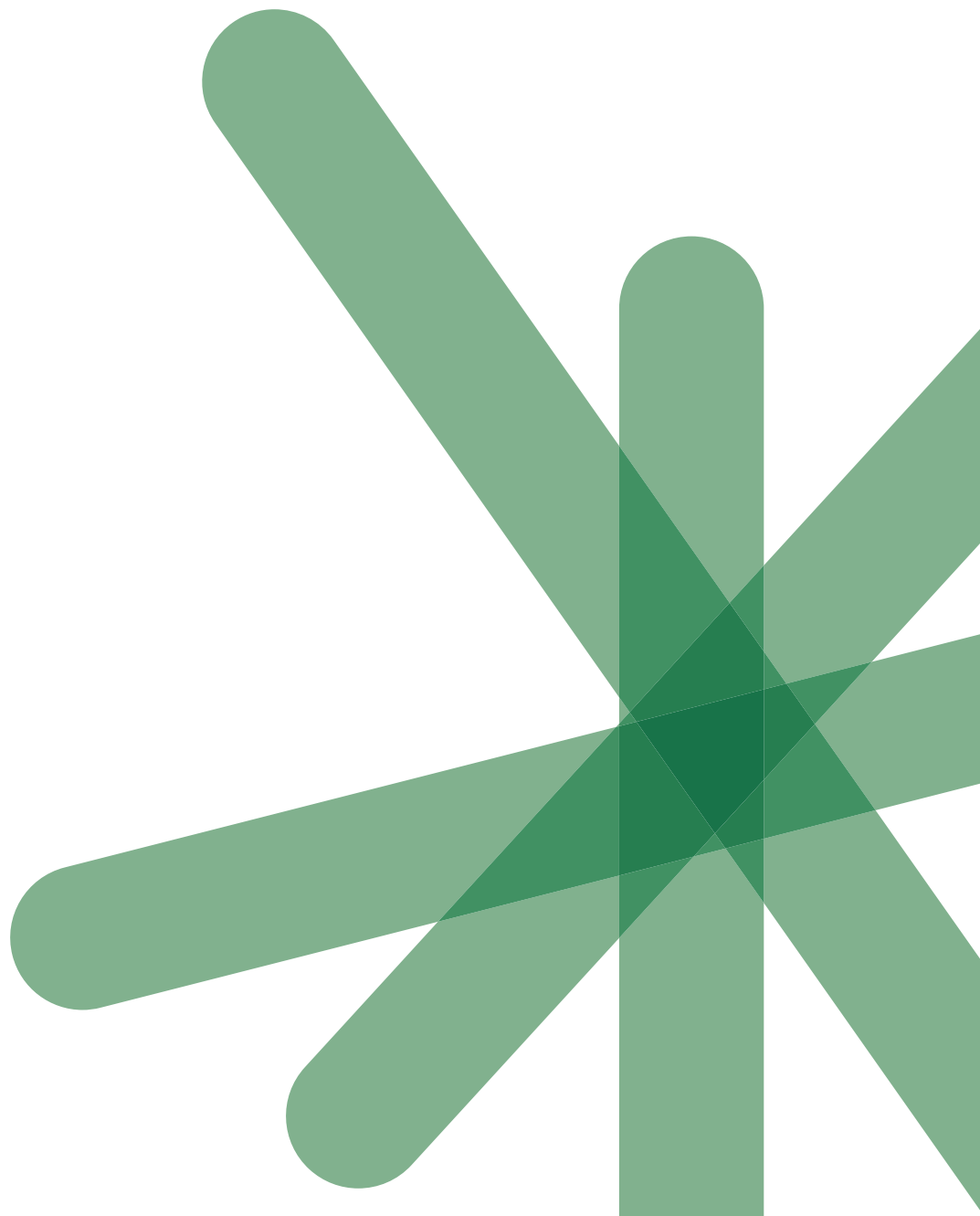
Notes

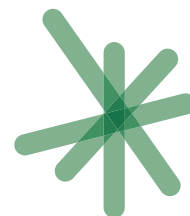
- 1 A European commission report concerning the application of state-aid rules to public service broadcasting can be found at ec.europa.eu/.../state_aid/.../broadcasting_communication_en.pdf
- 2 The European and External Affairs conducted a detailed enquiry into cohesion policy and its reports can be accessed at: <http://www.assemblywales.org/bus-home/bus-third-assembly/bus-committees/bus-committees-other-committees/bus-committees-third-eur-home/bus-committees-third-eur-agendas.htm?ds=6/2009>
- 3 A commentary on this report can be accessed at <http://www.clickonwales.org/2012/10/europe-2-why-mobilising-euro-funding-matters-to-wales/>
- 4 This strategy can be accessed at: <http://wales.gov.uk/topics/international/publications/eustrategy2012/?lang=en>
- 5 The text to this speech can be found at <http://www2.lse.ac.uk/publicEvents/events/2012/11/20121108t1830vHKT.aspx>
- 6 Carwyn Jones, reported in the Western Mail 16th December 2011 <http://www.walesonline.co.uk/news/wales-news/2011/12/16/welsh-first-minister-carwyn-jones-seeking-to-forge-stronger-links-in-europe-91466-29962559/>
- 7 See point 3 above
- 8 The Economic and Social Research Council recently held a seminar series looking at the effects of incongruence on IGR in the UK, and as part of this programme dedicated a session to the Europeanisation of intergovernmental relations. The briefings from this session can be accessed at www.institute-of-governance.org/_data/.../IGR_Briefing_EU.doc
- 9 <http://www.parliament.uk/business/committees/committees-a-z/commons-select/european-scrutiny-committee/news/david-lidington-transcript/>
- 10 This strategy can be accessed at http://archive.scottish.parliament.uk/s3/committees/europe/inquiries/euDirectives/documents/EUStrategy_Final.pdf

Chapter 9

Devolution and the media

IWA Media Policy Group





Devolution and the media

IWA Media Policy Group

Introduction

Broadcasting and the media represent a fusion of our economic and cultural interests. The process of devolution has been about improving our economic and social well-being and shaping policy to specific Welsh circumstances. Yet the cultural dimension to devolution is substantial and significant. It is about underpinning the distinctive identity of Wales as a nation, albeit within the context of the United Kingdom. Implicit recognition of this fact is contained in the grant to the National Assembly and the Welsh Government of a broader competence in cultural matters than in any other field.

Echoing the Government of Wales Act 1998, the Government of Wales Act 2006 says that “Welsh Ministers may do anything which they consider appropriate to support” eleven specified cultural areas¹ that, in total, embrace almost every conceivable aspect of our culture. The notable exception is broadcasting, arguably the field of cultural activity that has a greater daily public impact than any other. It is the hole in the doughnut.

The same anomaly applies in Scotland. There, the reserved powers model reserves to Westminster “the subject matter of the Broadcasting Act 1990 and the Broadcasting Act 1996” and “The British Broadcasting Corporation.”

This total exclusion from real power over broadcasting and media policy has had two effects: it has let UK Ministers and Ministers in the devolved administrations off different hooks. The former have paid only cursory attention to any aspect of policy that does not have universal application in the UK, while the latter, understandably, do not prioritise issues for which they do not have formal responsibility. The net result is that the interests of the devolved nations become footnotes in the debate, with the forays of Scottish or Welsh Ministers tending to be sporadic and ineffective.

This lack of timely, effective influence has been detailed by several commentators² and relates to many issues, including in the recent past:

- The decline in ITV services for Wales.
- The decline in the volume of BBC services for Wales.
- The transition from FM to DAB radio.
- The change in the funding of S4C.

This is of continuing concern since the next Communications Bill will have the capacity to alter

our media and cultural landscape in fundamental ways. Among the issues that will probably come within the compass of a new Bill, and which would affect Wales directly, will be:

- The future of the Channel 3 licences, their geography and content.
- The statutory foundations of S4C.
- Television production quotas for the public service broadcasters.
- Radio licensing, localism and the ability to impose language requirements.
- The future shape of community radio.
- Cross-media ownership rules.
- A regulatory framework that acknowledges the convergence of television and the internet.
- Future requirements for impartiality and balance that are fundamental to the tone of media provision.

These are vitally important matters, since they touch not only our economic and cultural interests, but also on our democratic interests. Some relate to the fair apportionment of economic activity in the broadcast sphere across the UK, others to the adequacy of Wales's presence on mainstream media. But many relate directly to the contribution of the media to the democratic process: the effectiveness of the bridge between our political institutions and the electorate. There are significant deficiencies in all three areas. Wales cannot afford to see any further weakening of provision in any of them. Indeed, we must look to strengthen our position in the years ahead.

This is a mighty agenda for Welsh Government ministers, National Assembly committees and broadcasting institutions to grapple with. Sadly, the record tells us that the devolved administrations have so far failed to achieve all their objectives in the broadcast field and that, at the centre of UK policy-making, business and technological considerations have easily trumped cultural considerations.³ There are, in Wales particularly, issues concerning capacity, structures and appropriate powers. They are inter-linked. All three should be addressed.

Structures

The current apportionment of responsibilities in the fields of the creative industries, broadcasting and telecommunications is not conducive to a joined up approach. Responsibilities are spread across three portfolios.

Since the 2011 Assembly elections, oversight of broadcasting has been the responsibility of the Minister for Housing, Regeneration and Heritage. The addition of major devolved functions such as housing and regeneration to the Heritage portfolio is bound to have relegated heritage/culture issues. In contrast, in the Scottish Government, the responsibility for culture rests with the Minister for Culture and External Affairs.

A key concern for Wales in the broadcast field is Welsh language broadcasting, specifically S4C. But responsibility for Welsh language matters in the Welsh Cabinet rests with the Minister for Education and Skills. Broadcasting is also central to the creative industries in Wales, yet the creative industries are the responsibility of the Minister for Business, Enterprise, Technology and Science. The broadcasting advisory panel – a sub-panel of the Creative Industries Panel – reports to the Business Minister not the Minister for Heritage. The Business Minister is also responsible for telecommunications.

Although this matter may fall outside the remit of the Silk Commission, it will have to be addressed

as part of the process of achieving effective devolution in these fields. Our preference would be to revert to previous practice and bring broadcasting and the Welsh Language together under a reconfigured culture portfolio, separated from Housing and Regeneration. This would still need some collaboration, as is the case at Westminster, between Culture and Business Ministers (particularly around telecommunications), which could be further facilitated by bringing together the civil service support for both briefs. After all, devolution of responsibility – say, through a new Communications Act – must entail the creation of a new internal capacity within the civil service.

Any advisory panels in the broadcast field (see below) would report to this Culture Minister.

Capacity

In the meantime, a lack of capacity is already an issue. In its evidence to the National Assembly's Task and Finish Group inquiry into the future of the media in Wales in 2011, the IWA Media Policy Group, argued that both the civil service and backbenchers lack the human resource to "sustain continuous forensic analysis of a fast-moving scene, let alone to develop the necessary foresight to anticipate and shape developments".⁴

It pointed to the fact that between the beginning of 2010 and late 2011 Ofcom had undertaken more than 140 separate public consultation exercises, of which at least a dozen were directly relevant to Welsh interests. In addition, the BBC Trust had conducted 18 consultations, of which at least eight were relevant to Wales, and the DCMS had conducted four consultations relevant to Wales. In all, in a period of less than two years, there had been 24 public consultations in the media and telecommunications fields to which Wales should have offered some response. Responses from the Welsh Government were made to only a handful of the most important.

As for capacity outwith the Welsh Government, the IWA evidence stated:

"Outside Government there are other advisory bodies and executive arrangements. Until recently Ofcom in Wales had a staff of eight, but this has now been reduced to five, a figure which includes a field engineer. Ofcom's Wales Advisory Committee consists of six people, including the Welsh representatives on the Ofcom Content Board and the Welsh Communications Consumer Panel, the last of which is currently being reconstituted.

S4C is an independent Authority of nine members, supervising a management board of six. The BBC in Wales has its seven-strong management board, with lines of accountability going, via the Director Wales, straight through to the BBC's Broadcast Direction Group, one step down from the BBC Executive Board. Like Scotland and Northern Ireland, Wales is represented on the BBC Trust by a national trustee who also chairs a 10-person Audience Council for Wales. Until recently ITV Wales had an eight-person advisory council. This has now been disbanded.

Ian Hargreaves, in his 2008 review of the creative industries in Wales⁵, said that "when devolved administrations have asserted themselves, they have got results", but he also pinpointed the weaknesses of low profile advisory systems.⁶ Similarly, in a lecture in 2010⁷, Geraint Talfan Davies argued that these mechanisms were not always effective "because, in everything that matters, the arrangements are either private or cosmetic or both". Since those strictures were made it has to be said that the S4C Authority has achieved a much higher profile, but for the wrong reasons, while Ofcom's Wales Advisory Committee has

proved particularly active and robust in stating its views. This is in contrast to the BBC's Audience Council for Wales which should be empowered to contribute to public debate as it arises, and not merely within the context of its formal annual review.

However, none of these bodies is resourced in a way that allows them to conduct a detailed and systematic monitoring of media performance and policy in Wales."

The existence of this capacity issue was acknowledged in the report of the Assembly's Task and Finish Group, which also accepted the IWA's view that there was a need for a "permanent media monitoring capacity". The Task and Finish Group said:

"53. We heard concerns that the Welsh Government does not have sufficient capacity to be able to develop a full understanding of the media in Wales, which would allow it to inform media policy for the future. Other concerns raised with us included the lack of a holistic approach and a perception of a lack of joint working across Welsh Government departments e.g. Business Economy and Transport and Heritage.

54. In our view, the Welsh Government has taken a number of positive actions to address these issues, including the establishment of the Creative Industries Sector Panel and its sub-panel on broadcasting, which is intended to advise both the Business and Heritage departments. We feel that the Welsh Government should continue to take steps to improve such joint working.

55. However, given the nature and number of the challenges facing the media in Wales, we feel that there is a need for a mechanism to provide an overarching, strategic direction; to be able to anticipate what the media landscape will look like in future and to inform policy direction accordingly; and to provide expert advice to Welsh Government Ministers.

56. We do not believe that the Welsh Government has the capacity to meet these needs, nor do we believe it is reasonable to expect it to be able to do so, given that powers in these areas are not devolved. For this reason, we believe that an independent advisory forum should be established, to take a strategic, holistic view across all of the media in Wales, and to be able to provide independent policy advice to the Welsh Government and its sector-specific panels. This forum should be established as soon as possible, in consultation with stakeholders across the media sectors, in order to be able to provide advice on a strategic approach to the forthcoming legislative changes, particularly the Communications Bill."

The Group made four recommendations:

"Recommendation 1: The Welsh Government should establish an independent forum to advise on policy in relation to the media in Wales. The forum should draw on expertise from across the media sectors. Its purpose should be to look to the future and to advise on matters across all sections of the media.

Recommendation 2: The Welsh Government should commission a review to map the media needs of the people of Wales. This review should inform media policy across all sectors, including existing and developing technologies.

Recommendation 3: The Welsh Government should ensure that it engages fully and proactively in the Communications Bill process, to ensure that the Bill reflects the needs of Wales.

Recommendation 4: The Welsh Government should continue to strengthen linkages across Government departments to ensure that the maximum benefit, economic and cultural, can be drawn from the media sectors.”

The Welsh Government rejected the first of these recommendations, although it agreed to keep these issues under review. Instead, as referred to above, a Broadcasting Advisory Panel was established under the umbrella of the pre-existing Creative Industries Panel. A small group has been convened, but it is not clear that it has the necessary resource for “a permanent monitoring capacity”, or that it will place information regularly into the public domain to prompt the kind of public debate that would buttress Ministers in pressing the case for Welsh interests at the UK level.

The second recommendation that the media needs of Wales should be mapped systematically, was accepted only in principle. There is no evidence as yet that such an exercise has been commenced.

The Task and Finish Group’s exercise was valuable and deserved to be more influential, but it is indicative of the way in which Assembly members are stretched that it was carried out by only four of the 10 members of the Communities, Equality and Local Government Committee and that it was not permitted to become a standing committee.

Devolving and sharing powers

It is generally recognised that the devolution of powers in this field is not as simple as in the fields of health or education. The broadcasting system in this country is composed almost entirely of UK-wide institutions, mechanisms and products – BBC, ITV, Channel 4, Channel 5, Sky, Ofcom, the licence fee and transmission systems, commercial radio groupings, daily newspapers, as well as international online giants such as Google. Even the First Minister of Scotland, in outlining the independence scenario, has had to give some public reassurance that many of the popular public service broadcasting services would continue north of the border.

We, therefore, start from the proposition that responsibility for broadcasting and media matters needs to be shared. We reject the notion that nothing in this field should be devolved unless everything is devolved.

In his Cymmrodorion lecture⁸ Geraint Talfan Davies described the way in which responsibilities are already shared between different tiers:

“Since 1989 we have been subject to a European Broadcasting Directive, *Television without frontiers*, which sets the legal framework within which television broadcasting in the EU operates. Apart from economic regulation it provides minimum harmonisation on the protection of minors and public order, consumer protection, definition of independent producers and the regulation of tele-shopping. This was amended in the 1997 Treaty of Amsterdam to take account of the emerging new technologies, at which time it stated, to my mind significantly, that the EU had to have regard to the cultural aspects of all policies, and to the need to protect lesser used languages. This legislation was further updated in the 2007 *Audiovisual Media Services Directive*, legislation decided on for the first time by co-decision with the European Parliament.

“In the UK it is true that all formal responsibility resides at Westminster, but the devolved administrations have managed to intrude at various points. The Scottish Government

funds the Gaelic Media Service, which allows it to be the main funder of the BBC Alba channel, contributing nearly £10m to the channel's total budget of around £14m.

"The Welsh Government's Heritage Department supports a Community Radio Fund, dispensed directly, as well as a Welsh language online news franchise, awarded bizarrely by the Welsh Books Council. The BBC National Orchestra of Wales is the only BBC orchestra to be funded by an arts council – the Welsh Government funded Arts Council of Wales. Our Arts Council also funds the Film Agency for Wales, but with the lottery monies that it receives from the DCMS – funding films that often have a broadcast investment attached. In addition, the Welsh Government's Economic Development Department has provided substantial funding for the extension and promotion of the broadband network in Wales.

"In Northern Ireland the 1998 Good Friday Agreement included a commitment – and I quote – "to encourage and provide financial support for Irish language film and television production in Northern Ireland *without adversely affecting English language broadcast provision*". [My italics] As a result the Northern Ireland Government has established an Irish Language Broadcast Fund, that part-funds Irish language programming on BBC services as well as working in collaboration with the RTE and TG4 in the south.

"In parallel with these indigenous funding mechanisms, an informal accountability to the devolved administrations has grown up, largely through the work of their committees, before which assorted broadcasting panjandruns appear and are questioned from time to time, although a good deal more harshly in Scotland than in Wales. The DCMS and the Welsh Government also have a concordat to govern their relationship, although this is said by officials to be 'a backstop rather than a bible'."

Currently no functions have been devolved in the media field under the Broadcasting Acts of 1990 or 1996, or the Communications Act of 2003. The responsible UK Ministry is the Department for Culture Media and Sport. Relationships between the DCMS and the Welsh Government are governed by a concordat, last updated in April 2011. Issues can also be discussed at the Joint Ministerial Committees at which the Ministers of the four nations meet, or at the Four Nations Culture and Sport meetings of officials.

The limitations of the concordat and the other mechanisms were starkly revealed by the exclusion of the Welsh Government (and S4C) from the negotiations between the DCMS and the BBC over a major change to S4C's funding and accountability. This was, incontrovertibly, a breach of the concordat which states in Annex B:

"The Secretary of State will consult the First Minister on broadcasting (television and radio) matters of relevance to Wales, if they:

- relate solely or principally to S4C, the Channel 3 franchisee for Wales and the West, or to the BBC in Wales; or
- impact solely or principally on viewers and listeners in Wales, or on the broadcasting industry in Wales; or
- relate materially to the Welsh language, or to the distinctive culture of Wales."

In the case of the DCMS-BBC negotiation on S4C funding, the concordat was breached on each of the three counts, and compounded by the UK Culture Secretary's refusal to meet with Welsh

political leaders on the issue. Concordats are at their weakest at the very moment when they are most needed.

It is imperative that Welsh Ministers are given a formal locus in these fields. It would encourage UK Ministers to develop a more active relationship with the Welsh Government. It would also ensure that Welsh Ministers ascribe a higher priority to these issues.

A two-stage approach

We approach this task aware that:

- The UK's media environment is far more centralised than many European countries - Germany, Spain and the Netherlands offering sharply contrasting examples;
- Remedying this centralisation must involve not only the devolution of some governmental responsibilities, but also changes in the structures and behaviours of broadcasting organisations and the regulator, Ofcom;
- The rapidity of technological change, particularly the convergence of television and the internet, and the advent of high speed broadband alongside 4G mobile coverage, is making it more difficult for Wales to inject timely influence to shape a media environment to its needs.

Telecommunications issues that have such potential to affect our economic performance are, understandably, now demanding as much if not more ministerial attention than more traditional media concerns. In 2008 the Welsh Government set up a Broadcasting Advisory Group - on a task and finish basis - to give a view on future challenges in media policy. This recommended the establishment of a Welsh Media Commission, as a bilingual multi-media organisation to have oversight of all media in Wales.⁹ Even if desirable, such a solution assumes considerable change across a number of organisations. It is unlikely, therefore, that such a commission would be established without there having been a prior period of devolution of responsibility for some specific broadcasting and media matters. This paper confines itself to those first stages.

Appointments

A start should be made by changing the approach to key appointments. At present when the Chair of S4C or the BBC Trust member for Wales is appointed, there is a degree of consultation with Welsh Ministers. Usually, this involves an official from the Welsh Government sitting on the selection panel. This was also the practice in Scotland, until the passage of the Scotland Act 2012. The new Act states¹⁰, in relation to the appointment of the BBC Trust member for Scotland:

“(1) A Minister of the Crown must not exercise without the agreement of the Scottish Ministers functions relating to selection for a particular appointment by which—

- (a) a person is to become a member of the BBC Trust and hold a Scottish post, or
- (b) an existing member of the Trust is to hold a Scottish post.

(2) “Scottish post” means a position, held as a member of the Trust, with specific reference to Scotland.”

Note that this refers to the *agreement* of Scottish Ministers, rather than mere *consultation*, making it, in effect if not in name, a joint appointment. Although this should ensure much closer liaison between London and Edinburgh, it should be remembered, however, that joint appointment does not necessarily imply formal accountability to both parties.

As an absolute minimum, a similar statutory commitment should be made in respect of the BBC Trust Member for Wales as well as the Chair and Members of the S4C Authority, even if the accountability of both organisations remains unchanged.

In the event of the devolution of responsibility for S4C, appointments to the S4C Authority would be the sole preserve of the Welsh Government.

S4C

In his report on the creative industries in Wales¹¹ Professor Ian Hargreaves argued that the level of public debate about S4C was not in line with its importance both culturally and economically and asked whether this was “a consequence of the fact that S4C is funded and largely regulated from London”. He thought that “the UK authorities involved (Ofcom and DCMS) lack the instinct and self-confidence to animate this uniquely Welsh debate and the Assembly lacks the formal mandate.”

For these reasons, even if for no other, S4C remains the prime candidate for a transfer of responsibility from the DCMS to the Welsh Government. S4C is central to Welsh language policy in Wales. The more it pursues the wider partnerships that are now expected of a public service broadcaster, the more involved it becomes in the delivery and/or promotion of other aspects of that policy. It is at least as totemic in the Welsh psyche as, say, the National Eisteddfod. There must, therefore, be an accountability within Wales.

It is true that licence fee funding for S4C via the BBC Trust complicates the issue, but it also makes the change all the more necessary. When S4C was funded by the DCMS, using a formula that guaranteed RPI increases, S4C was not competing for funding with other broadcasting services. It is inconceivable that that will be the case when the BBC’s cake is divided. The natural tendency of a UK-wide organisation will be to look at total investment in any one part of the UK. Significantly, the Scottish Government is already arguing for an additional investment in Scotland equivalent to the spend on S4C. It is not difficult to imagine this becoming threatening to both Welsh and English language services.

Few in Wales would wish to rely on section 31 of the Public Bodies Act 2011, which states that:

“The Secretary of State shall secure that in 2012 and each subsequent year the Welsh Authority are paid an amount which he considers sufficient to cover the cost to the Authority [of providing and distributing the services].”

In practice the DCMS will neither wish to increase its current £7 million direct spend on S4C, nor to direct the BBC Trust how to spend its money. Indeed, the Chancellor’s 2012 Autumn Statement set out a plan to reduce the figure by 1% in 2013-14 and a further 2% in 2014-15. Transferring the responsibility to the Welsh Government (along with the £7 million, and outside the Barnett formula) would not only place it where it matters, putting it in the hands of people who have to live with the consequences of their decisions, but it would also enhance the accountability of both S4C and the BBC within Wales, making it real rather than cosmetic. Such a transfer of responsibility would also mean that the current periodic appearances of BBC and S4C executives before Assembly

committees would assume much greater importance for both organisations, and that Welsh ministers would have to sharpen their focus on these matters.

This change should be enshrined in any new Communications Act.

BBC

The BBC is the dominant media presence in Wales, in terms of the scope of its services, its news provision, its audience penetration across television, radio and online and its total spend. It has taken considerable strides to decentralise programme production, building new production bases in Glasgow and Manchester and a substantial drama production centre in Cardiff Bay. Yet, in its decision-making the BBC remains a highly centralised organisation that has yet to adjust fully to the new shape of the United Kingdom. It seems still to regard devolution as an event rather than a process.

Within the BBC the apparatus already exists to create a more federalised structure that could allow a greater degree of local decision-making and accountability within each country, while still retaining an essential unity of purpose and values essential to the delivery of its UK-wide services.

Scotland, Wales and Northern Ireland are each equipped with substantial facilities. There is a long tradition of representation at Governor level, and in recent years on the BBC Trust. There is an equally long tradition of advisory bodies in Scotland, Wales and Northern Ireland. Until the creation of the BBC Trust these were known as National Broadcasting Councils and their function was “to control the policy and content” of the radio and television services provided in their respective countries. Although not exercised in a detailed or systematic way, they did provide a backstop power that could be used in extremis. For instance, in Wales in the 1970s it allowed the Broadcasting Council for Wales publicly to argue the case for a Welsh language television channel, although the BBC Board of Governors took a different view.

This power of the National Broadcasting Councils was removed in the recast Royal Charter in 1996. All vestiges of their role disappeared after the creation of the BBC Trust, when the Councils were abolished in favour of Audience Councils that carry out a purely advisory role, largely in private.

These changes ran right against the tide of devolution, and need to be reversed. The BBC should revive the National Broadcasting Councils as National Broadcasting Trusts, working under the umbrella of the BBC Trust, but responsible for all programme and online services created solely for the audiences in their respective countries. This could be done without any change in the responsibility for and management of the BBC’s UK network services.

OFCOM

When OFCOM was established, at the time of the passing of the Communications Act 2003, the then Government resisted the appointment of representatives of the nations on the main OFCOM Board, in accordance with the BBC model, despite representations to that effect from the devolved administrations. However, Section 1 (6) required OFCOM to maintain separate offices in England, Wales, Scotland and Northern Ireland, while Section 3 (4) (1) obliged OFCOM, in discharging its duties, to have regard “to the different interests of persons in the different parts of the United Kingdom, of the different ethnic communities within the United Kingdom and of persons living in rural and in urban areas.” Section 12 (5) required it to appoint representatives from the four countries to its Content Board. Similarly, Section 17 (3) required the appointment of representatives of the four countries to its Consumer Panel. Section 20 (1) also required the appointment of advisory

committees for England, Wales, Scotland and Northern Ireland.

Notwithstanding these provisions, there have been times when OFCOM's central decision making has not seemed to take full account of the strength of opinion. This has been the case on issues relating to both television, particularly the erosion of ITV provision in the nations and regions, and radio.

It is time to revisit the issue of the representation of Scotland, Wales and Northern Ireland on the OFCOM main board. There is no reason why that board should not be constituted on the same lines as the BBC Trust, with appointments made in the same way as we propose for the BBC Trust and the S4C Authority. This would be essential if the BBC is made accountable to OFCOM after the expiry of the current Royal Charter in 2017.

Commercial and community radio provide classic examples of a poor fit between local delivery and centralised regulation. Economic pressures have driven the consolidation of the industry and a concomitant erosion of local provision in many areas, while the transition from FM to DAB transmission has proceeded with scant regard for DAB's inherent unsuitability for Welsh topography. Welsh language provision has struggled to survive outside the margins of programme schedules. At the same time the Welsh Government provides financial support for community radio in Wales, though playing no part in its regulation.

Until recently there was no guaranteed Welsh presence on Ofcom's radio licensing committee. That has changed, but there is no reason why the task should not be entrusted to its Wales-based committee. Ofcom's current Advisory Committee for Wales embodies considerable expertise and would be more than capable of taking on the licensing task as well as developing policy for commercial and community radio that reflects our topography, the relatively small scale of our towns and cities, our communitarian tradition and the needs of Welsh-speakers. There is evidence that commercial owners would welcome the change, obviating the need, as is now the case, to deal with teams in both Cardiff and London.

Upgrading the status of the Ofcom Advisory Committee for Wales would also allow it to play a more active role in developing public debate on Welsh needs in telecommunications, a field in which crucial decisions are likely to be taken in the coming years, some of which will be enshrined in any new Communications Bill. These issues would include:

- Setting coverage targets for 4G mobile phone systems that ensure that Wales remains competitive with the rest of the UK.
- Ensuring competition in rural areas or preventing abuse of a monopoly position.
- Ensuring collaboration on 'roaming' between different mobile providers.
- Preventing the hoarding of spectrum, especially in marginal areas.
- Deciding where the assignment of spectrum might be more appropriate than auction.

Ultimately, the Ofcom Advisory Committee, might provide the core of a Welsh Media Commission.

Accountability processes

Since the establishment of the National Assembly, senior executives, governors and trustees have, from time to time, come before Assembly committees to be subjected to what can only be described as light scrutiny. A combination of excessive courtesy and limited knowledge ensures that the process is not an ordeal. Often this arises because of a dearth of professional analysis, not helped by the fact that tabled annual reports from broadcasters tend to concentrate only on good news. A more direct accountability should be used to ensure a more rigorous assessment of performance.

Summary of conclusions and recommendations

1. That the exclusion of the devolved administrations from any real power in the field of broadcasting and media does not accord with the spirit of devolution, and is no longer justified.
2. That responsibility for broadcasting and media matters needs to be shared between the UK Government and the devolved administrations. We reject the notion that nothing in this field should be devolved unless everything is devolved.
3. That responsibility for S4C should be transferred from the DCMS to the Welsh Government, along with the current DCMS budget of £7 million (but outside the Barnett formula)
4. That the Chair and members of the S4C Authority should be appointed by the relevant Welsh Minister.
5. That the appointment of the Welsh member of the BBC Trust should be subject to the approval of the relevant Welsh Minister – in effect a joint appointment with the DCMS.
6. That the current Audience Councils in Scotland, Wales and Northern Ireland should be replaced by National Broadcasting Trusts, operating under the umbrella of the BBC Trust, and responsible for the policy, content and allocation of resources for all services delivered solely for audiences in their respective countries.
7. That representatives of Scotland, Wales and Northern Ireland should be appointed to the main board of OFCOM, and that their appointment should be subject to the approval of the relevant Ministers in each of the devolved administrations.
8. That responsibility for the development of local and community radio policy and licensing in Wales be transferred to the Ofcom Advisory Committee for Wales, suitably re-named.
9. That responsibility within the Welsh Government for broadcasting and for Welsh language issues should be combined within a single culture portfolio.
10. That civil service support for the future broadcasting functions of the Welsh Government should be combined with the support functions in the creative industries and telecommunications fields.

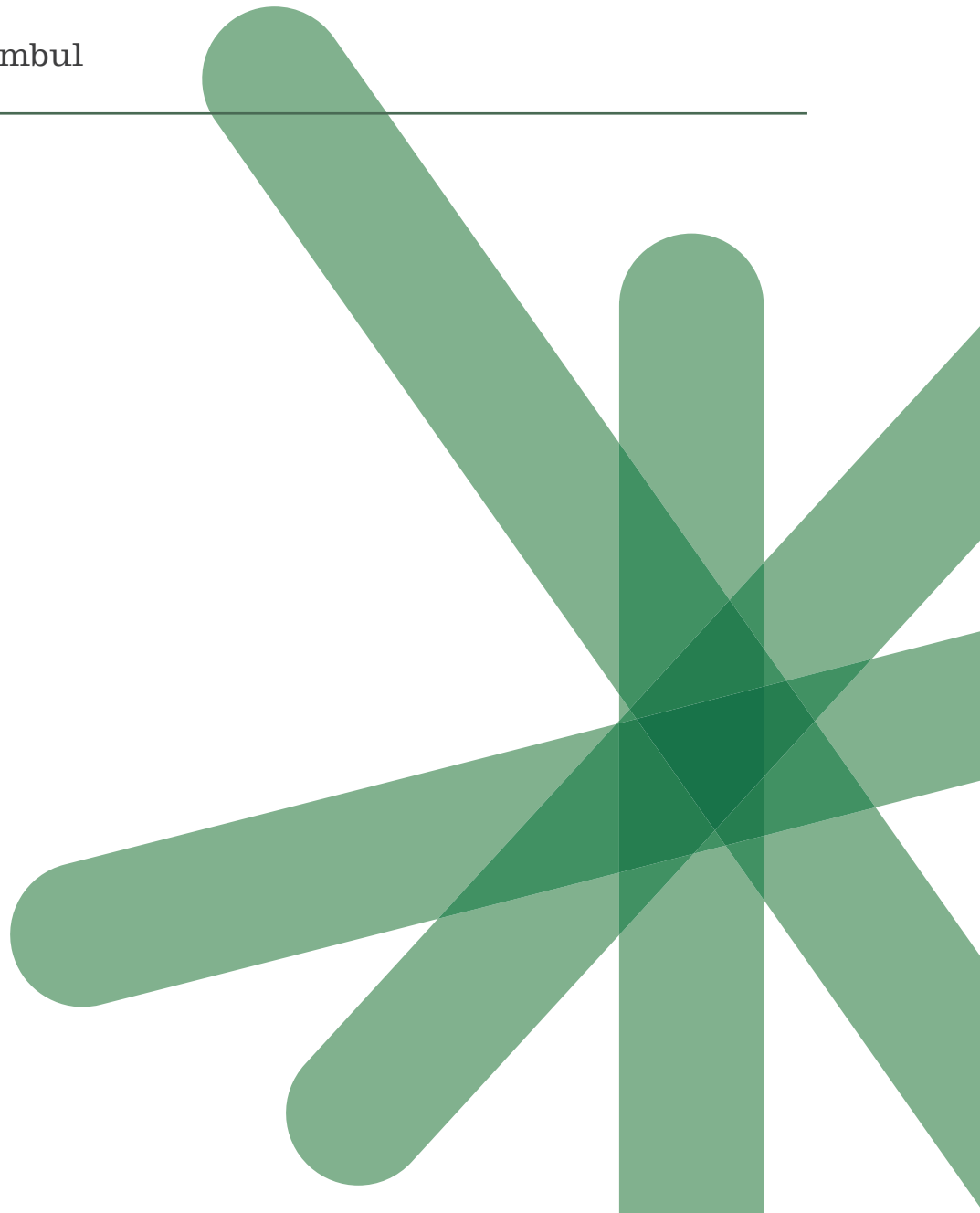
Notes

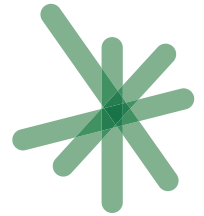
- 1 The 11 areas listed in GOWA 2006 are a) archeological remains; b) ancient monuments; c) buildings and places of historical or architectural interest; d) historic wrecks; e) arts and crafts; f) museums and galleries; g) libraries; h) archives and historical records; i) cultural activities and projects relating to Wales; j) sport and recreational activities; k) the Welsh language.
- 2 Davies, Geraint Talfan, *Devolution and broadcasting*. Lecture to the Honourable Society of the Cymmrodorion, 2010. <http://www.clickonwales.org/category/lecture-library> Hargreaves, Ian, *The Heart of digital Wales: a review of the creative industries*. Welsh Assembly Government 2010. <http://wales.gov.uk/docs/det/publications/100324creativeindustriesrpten.pdf>
- 3 IWA Wales Media Policy Group evidence to the National Assembly Task and Finish Group on the future of the media. December 2011. <http://www.clickonwales.org/wp-content/uploads/IWA%20MEDIA%20EVIDENCE%20FINAL.PDF>
- 4 Ibid. p. 45.
- 5 Ibid.
- 6 The same review pointed out that the Welsh Government's lack of mandate with regard to broadcasting diminished its ability to support Wales' creative industries, which are a promising part of the economy, but weak by comparison with most UK regions.
- 7 Ibid.
- 8 Ibid.
- 9 *Communication and Content: The media challenge for Wales*, Report of the Broadcasting Advisory Group to the Welsh Assembly Government, November 2008. See <http://wales.gov.uk/docs/drah/publications/20090730communicationandcontent.pdf>
- 10 Section 16, Scotland Act 2012
- 11 Ibid.

Chapter 10

The Scrutiny Capacity of Civil Society in Wales

Rebecca Rumbul





The Scrutiny Capacity of Civil Society in Wales

Rebecca Rumbul

Introduction

A diverse and vibrant civil society is essential to a functioning and engaging democratic system. Few would argue with this statement. But why is civil society so important? What role is it that civil society plays in improving the quality of public life? And how does it execute this role? More importantly perhaps, given its importance, how is it supported by the public and our governing institutions in performing its vital role in civil life? In 2001, reflecting on the early days of devolution, Kevin Morgan and Gareth Rees stated:

“The Welsh governance system now enables much greater accessibility, at least to those with the organisational capacity to capitalise on the opportunities which are newly available.” (Morgan and Rees, 2001)

Over ten years of Welsh devolution later, this paper explores if, and how, that accessibility has been utilised. It centres on the capacity of Welsh civil society to engage with the governing institutions in a scrutiny and development role, from proposing and scrutinising legislation to manifesto contributions and policy development and delivery.

It was stated that, should a ‘Yes’ vote be achieved in the Welsh 2011 referendum, a stronger civil society would need to emerge in order to both take advantage of, and regulate the quality of, public life in Wales (Nicholl, 2010). There are a number of definitions of what civil society actually is. Too often, ‘civil society’ is narrowly considered to be the voluntary sector. However, trade unions, public affairs organisations, political parties and campaigning organisations also have an important role in influencing and scrutinising the activities of government. One commonly cited definition is that civil society occupies the space between government, the market and the individual, and this is the base from which this paper is approached.

A wide variety of research has now been carried out into civil society in Wales. However, very little academic literature has specifically examined the capacity of Welsh civil society to fully scrutinise the work of the governing institutions in Wales, the National Assembly and the Welsh Government.

Unlike Scotland, where the Constitutional Convention bound civil society together in the process of achieving devolution, Welsh civil society was largely absent from the devolution conversation pre-1999 (Day, 2006). This meant that Welsh civil society was somewhat off-the-pace from the very beginning in terms of understanding the mechanisms put in place, and how to work with them. There has been

recognition within voluntary sector conferences and speeches (Davies, 2010; McAllister, 2010) that scrutiny needs to be set apart from general opposition and 'nit-picking' (Rees and Chaney, 2011), and needs to be opened up to wider civil society and members of the public (Williams, 2011).

Day (2006) notes that positive structures were put in place to ensure inclusivity was built into the National Assembly's remit. However, he notes that the "speed and intensity of policy formulation and review admits only the well-resourced, and skilled, into the process". Hodgson (2004) has accused the Welsh Government of 'manufacturing' civil society, corralling organisations into its own vision of a helpful and productive sector. This, he says, suggests a tendency for governing institutions to impose their own values upon the sector.

Generally, the academic literature highlights the many opportunities for Welsh civil society, and the positive structures put in place to include and support it. Many papers are critical of certain aspects of meaningful inclusion and capacity to engage, but are often forgiving in light of the youth and on-going process of devolution. Looking to the future, it is perhaps prudent to ask, at what point do we become less forgiving?

The role of the governing institutions

The differences between the National Assembly's and Welsh Government's approach and to the engagement of civil society were, at least in the limited scope of this research, quite marked. The efforts of the Assembly have clearly evolved over the four terms. Initial efforts to engage with those outside its walls focused on individuals in a rather scattergun manner through presence at shows and popular public events. In the Third Assembly, external engagement and civil society capacity building shifted towards defining the Assembly as an institution and understanding the powers held by it, in anticipation of the 2011 Referendum.

Since the inception of the Fourth Assembly, there has been a recognition that the Assembly needs to focus its engagement activities with civil society in a more targeted and strategic manner in order to achieve meaningful change. Accordingly, it has developed a range of tools to try to improve its engagement with civil society, and appears genuinely enthusiastic about trying to increase participation. These tools include a newly re-focused outreach team, which is targeting specific areas of society to engage, and a 'toolkit' available to AMs in which a menu of activities and events are laid out for use in successfully engaging relevant groups and individuals for the purposes of policy development and legislative scrutiny. All this reflects a reality that the National Assembly has historically been a misunderstood organisation, both by the media and civil society generally, in terms of media coverage and civil society understanding, so it is perhaps not surprising that its corporate attitude is somewhat eager.

On the other hand, the Welsh Government is generally accepted to be less energetic and innovative in widening participation by civil society. This institutional lethargy towards engaging with civil society was evident in some of the interviews conducted for this paper. It is also detectable in the lack of information available to civil society on how to get involved with policy development and delivery. The Welsh Government's website is widely regarded as difficult to navigate and unhelpful in directing individuals to the relevant information. Similarly, individuals expressed difficulty in finding the 'right person to talk to' when trying to contact the Government about specific issues, whether by telephone or email. Two interviewees used the term 'faceless' to describe the Welsh Government, illustrating the lack of meaningful information available to those trying to generate a dialogue on specific issues.

Most respondents in this study identified Welsh Government's consultation processes as time-

consuming and, occasionally, superficial. Some individuals cited a feeling of powerlessness, saying they felt they had to respond to consultations in order to demonstrate their engagement. However, the process often felt pointless, as their contributions rarely appeared to influence the Welsh Government's thinking. This was most strongly felt by voluntary organisations that did not have particularly good links with government.

This was not experienced across the board, however, and some individuals, in particular in education, recalled very positive consultative processes with the government. At the same time, the quality of consultations appears to be dependent upon the civil servants and departments involved, the level of expertise in civil society and the capacity of civil society organisations to engage. In instances where the individuals involved are enthusiastic and receive support from their managers/ministers, it works well. In instances where expertise is lower, where political will appears weak or where organisations cannot afford to devote time to engaging further than responding to a consultation, the quality of the process itself appears to decrease, with civil society satisfaction declining with it.

The Welsh Government established structures to engage with the voluntary sector through its obligations as part of Government of Wales Act 1998 and the later Government of Wales Act 2006. This gave birth to the Third Sector Partnership Council. However, this is a narrower obligation than to civil society as a whole. Nevertheless, the Council includes a wide range of thematic representation, and its facilitation by the WCVA enables it to engage a wide range of organisations in tackling common issues.

Nevertheless, the Partnership Council has been subject to some criticism, ranging from the lack of time allocated to it by the Welsh Government and the Ministers responsible for it, a lack of diversity in its representation ('the same old faces' sitting around the table), and a tendency of the thematic representatives to represent the interests of their own organisations, rather than the variety of organisations in their area. These criticisms are not necessarily representative of the sector, and many individuals have over-estimated the scope of the Council, leaving them disappointed with its outcomes.

In the current financial climate, funding is of course a significant issue, and while the Council has addressed this, some perhaps felt that this wasn't generating the funding for the sector for which they were hoping. Possibly the most fitting description of the Council was that it was "a good thing to have. Not amazing. But better than not having it".

The Welsh Government provides significant funding to civil society organisations to support their work and contribute to their operating costs. Several organisations indicated this support was vital to their continued existence. Over time, the relationships they developed with civil servants was key in their development, their ability to deliver, and their ability to secure other funds, for instance from the European Social Fund

Yet such long-term on-going Welsh Government support raises two considerations. First is the extent to which established relationships between the Welsh Government and civil society organisations impedes the development of relationships with other organisations operating in similar policy areas. Several participants felt that some organisations were the 'go-to' organisations for certain policy areas, and found it difficult to get their voices heard or to gain funding from the government due to the dominance of these trusted organisations. Whilst there will always be conspiracy theorists dissecting these relationships, these organisations are mostly ones which have worked with the Welsh Government in the past, and are simply those that are automatically considered as operating in their areas. More often than not, they are able to deliver activity on a Wales-wide basis.

However, if the Welsh Government fails to make new relationships or to keep informed of activity in civil society, and continues simply to fund the same activities within the same organisations, then it is likely that civil society will stagnate. Since the financial difficulties of 2008, a number of civil society organisations have ceased to operate, and this has not only reduced the plurality of the sector, but has reduced the pool of organisations not reliant upon some support from the government.

This leads to the second consideration, which is the extent to which organisations reliant upon funding from the Welsh Government are properly able to scrutinise and hold it to account. One of the key roles of civil society is to advise the governing institutions, and to challenge proposals that could be inappropriate or ineffectual. Are organisations reliant upon state funding able to do this without concern that this will later impact their income?

The findings of this research show that, generally, organisations exercise choice and strategy in their scrutiny role, but few feel fully able to criticise government. This is not to say that Welsh Government funding is conditional upon the support of the organisation for all its aims. In fact, the government and also the National Assembly were steadfast in their belief that civil society organisations should be their critical friends and partners in policy development.

However, often in such situations, there is a difference between the official line and practice. In theory civil society organisations may be defiant about their ability to stand up to the Welsh Government. In practice they tend to deploy significant diplomacy in their criticism of government. One participant noted a ‘good-cop/bad-cop’ approach, where the policy officer would be critical of the Welsh Government in a consultation response or in the media, and the organisation’s chief executive would meet their relevant Welsh Government or Assembly contacts to smooth things over. This uneasy role has been reflected in previous research (Day, 2006).

It is clear that there exists a tension between the relationships that government quite rightly cultivate with civil society, and the ability of civil society to separate these relationships from their scrutiny and advice role.

The view from civil society

Ask an average Welsh person on the street what their level of knowledge is about the National Assembly, and the chances are, that at least 52 per cent will exhibit some uncertainty in their answer (Scully *et al*, 2008). This is slowly changing as devolution matures. Nonetheless, many people, even some professionals with policy functions within civil society, remain unsure of themselves when describing the role of the National Assembly and distinguishing it from the different functions served by the Welsh Government.

Policy and public affairs professionals within civil society predominantly talk about policy delivery activity with the Welsh Government when discussing their engagement in governance. This activity mostly consisted of participation on the Third Sector Partnership Council, various steering groups or through grants awarded for core work carried out. This is very much the thin end of the wedge in terms of influencing how government addresses issues, as room for manoeuvre is limited to the manner in which policy aims are delivered. At this point, broad policy aims have been enshrined in manifesto pledges, and attempting to work outside of these priority areas can, in one participant’s words, feel like an uphill struggle.

When discussing the potential ways of influencing political and government priorities before

delivery stage, that uncertainty identified earlier in this section creeps back into a lot of responses. Probe a little further and query engagement with the National Assembly, and activity frequently appears to centre on lobbying individual AMs for more funding for particular service delivery areas. Participation in committee's and consultation processes is evident in larger organisations, but very much less so in smaller organisations.

There was an evident lack of understanding of the opportunities available to civil society organisations through petitioning and legislative processes. Several organisations that did have a basic understanding of these mechanisms exhibited a degree of indifference to those opportunities, even whilst admitting that these would probably be the best routes to influence policy and funding at a later date. Some recognised that engaging with these mechanisms would entail an enormous amount of work that they would have to take on in addition to their existing duties. Others were daunted by the length of time such activities would take to bear fruit. Generally, participants were reluctant to consider such activities because they would not receive the support from their organisations in terms of staff resource and expertise to cope with the additional workload.

A number of research participants from the voluntary sector were in roles with multiple responsibilities. Whilst larger organisations had dedicated posts for policy and public affairs, the majority of smaller organisations bound policy and public affairs responsibilities up into the roles of director, manager or other officer posts. This means that many organisations have employed individuals on the basis of their management skills or expertise in the organisations policy area, with responsibilities for public affairs and media engagement bolted-on. It is these individuals that exhibited the greatest frustration. Many wanted to be more active in public affairs through engaging with the National Assembly and Welsh Government, but felt powerless to do so. They wanted the opportunity to participate on Steering Groups or Advisory Committee's administered by the government or the WCVA, they wanted to give evidence to the Assembly where appropriate, and were willing to put in the extra hours to do so. However, they were often at a loss as to how to achieve these goals.

Most of them had not received any support from their organisations such as training or development in understanding Welsh institutions and their functions, and found it difficult to identify appropriate opportunities to do so. A general feeling amongst this group was that there was an upper tier of people in civil society that not only knew how it all worked, but also had good contacts and relationships that facilitated their engagement.

Whilst it is debateable whether such an 'upper tier' exists in practice, there does exist a group of policy and public affairs professionals who are extremely knowledgeable about the devolved system in Wales, and are confident in engaging with the Welsh institutions. Most have a public affairs or political background. Many having studied politics at Aberystwyth or Cardiff Universities, or have been employed by politicians in previous professional roles. They tend to be much more connected to other public affairs professionals in Wales through social, family and professional ties than other voluntary and civil society workers. Indeed, many are members of political parties.

This group of professionals are demonstrably better at engaging with constitutional issues than 'sector people' – a term used by one research participant to refer to individuals whose employment history is in the voluntary sector, and who have a greater interest in their organisations charitable aims rather than politics.

This difference between those who understand and engage with the Welsh governance framework and those who don't, presents a dilemma for assessing the state of civil society engagement in

Wales. There are undoubtedly very positive and engaged people actively influencing and scrutinising the work of the Welsh institutions. However, there is not a broad or deep enough pool of such professionals. Meanwhile, there a significant number of other people feel disengaged, disillusioned and disregarded by the political and public sector institutions in Wales, either because they feel situated outside of the 'go-to' organisations or lack the right knowledge about how to engage.

This poses the question - where does responsibility for civil society engagement lie? Those involved must accept a certain amount of criticism for failing to professionalise public affairs within their organisations. It is clear that those organisations that have hired public affairs professionals are benefitting from their expertise and are more engaged with government. Organisations that have hired people who are not from a public affairs background struggle engage effectively.

At the same time the institutions that rely on civil society for expertise, scrutiny and advice are not without blame. In particular, the Welsh Government appears happy to maintain the status quo, exerting very little effort in keeping abreast of civil society work or engaging with other than the 'usual suspects' in policy development and delivery. The efforts of the National Assembly as an institution, as discussed earlier in this paper, are more positive, but somewhat scattergun and superficial. Arguably, AMs rely too heavily on the support and knowledge of their special advisors and political parties, a collection of individuals who have significant expertise in public and constitutional affairs, but, more often than not, lack meaningful knowledge of civil society organisations and their work.

The representatives

The role of the Wales Council for Voluntary Action divides opinion in Welsh civil society. Championed by some as key in funding and up-skilling the voluntary sector over the first decade of devolution, others are less convinced of its ability to facilitate the voluntary sector to develop its own voice, rather than simply speaking for it. The Voices for Change Cymru project it developed with National Lottery funding between 2008-2011 was cited by many participants in this research as a standout initiative. Certainly, of all the training on offer at WCVA and other Voluntary Councils, it was this programme that was most enthusiastically discussed by those who had benefitted from it. However, there will always be those with greater ambitions for such initiatives than the projects themselves can reasonably achieve. Several commentators suggested the project was not ambitious enough. While it provided a baseline knowledge of Welsh institutions and opportunities for engagement, it was considered a 'missed opportunity' by some in terms of giving organisations a greater push towards approaching the National Assembly. Despite this, the end of the project, due to lack of funding, was lamented by a number of participants. Undoubtedly, and it has left a gap in provision for civil society.

Training and other public affairs activities are, of course, available to organisations in other forms. Commercial lobbying occupies an interesting space in civil society, representing organisations, providing updates and generally negotiating waters with which some organisations are unfamiliar. Several civil society organisations operating in Wales have turned to public affairs firms, at some expense, instead of cultivating expertise within their organisations. Participants in this study mostly purchased only select services, such as monitoring and policy analysis, as their own in-house teams did not have the capacity for these activities. Others opted for a larger package of services. The short-term nature of procuring these services was most commonly cited as a reason to use this route over employing staff. Procuring a public affairs firm was a more versatile option, and reduced financial obligation in the long-term.

The Trade Unions appear to be the most organised corner of civil society in their approach to representation of their members and engagement with the National Assembly and Welsh Government. They placed greater emphasis on recruiting public affairs and policy staff with political education and experience, and generally had a very good overview of the Welsh governance mechanisms. However, they are focused upon empowering individuals in very specific, work-related issues, and stand somewhat apart from the voluntary sector. They are also political organisations themselves, and have histories of influencing and engaging with particular parties. At a senior level, social and professional links to the parties and to civil servants enable the Unions to influence at a number of levels, in manifesto development, during the progress of legislation through the Assembly, and in the implementation of policy. Whilst political association may not be of huge benefit to individual civil society organisations, the importance the Unions appear to assign to public affairs demonstrates how effective organisations can be when they have the right resources to engage with the governance of Wales.

Comparing Scotland and Northern Ireland

The devolved nations each operate in a different civil society landscape. The Scots have made strides to set themselves apart from their UK counterparts, whereas organisations in Northern Ireland appear less enthusiastic about championing their differences from Westminster. In Scotland civil society organisations matured during a decade of experience with the Constitutional Convention prior to the 1997 referendum. This provided a cornerstone for them to develop working relationships with political organisation and to gain a deep understanding of government.

Organisations in both Scotland and Northern Ireland were able to rely on separate jurisdictions as clear examples of their ‘separateness’ from the rest of the UK, which was key to establishing strong, and independently branded organisations. They appear to enjoy more autonomy from UK policy teams than their Welsh colleagues. Certainly in Scotland, several organisations appear to have larger budgets and greater evidence of engagement with the government. Nevertheless, Scotland and Northern Ireland experience similar frustrations. There is also a similar split in civil society between some organisations which have very good access, and a large pool of others with very little (Meade, 2005).

Recommendations

Key areas that could be targeted to achieve improvement include greater provision high quality training and development, greater investment by the Assembly and Welsh Government in developing links with civil society organisations, and greater investment by civil society organisations themselves in engaging with the government.

Training and development:

A gap in the market exists in Wales for public affairs training. With the exception of one or two bespoke courses, the cost of which is beyond many civil society organisations, there is little training available for organisations wishing to improve the skills their employees. It would be inappropriate for Welsh Government to completely fill this gap. Universities should explore providing training courses and continuing professional development aimed at governance and civil society.

However, both the National Assembly and the Welsh Government should certainly consider ways of demystifying their organisations. The Assembly is trying to do this through its communications toolkit and through its recent partnership with the Wales Governance Centre. However, the Welsh Government appears impenetrable to many in civil society. Both institutions could benefit from

better engagement, either through inviting civil society organisations to specially organised events, with secondments, or through partnering with organisations such as WCVA to deliver training or information sessions.

Greater investment by the Welsh Government and Assembly:

At present a small pool of people in some civil society organisations tend to be 'over-consulted' and a large pool of people are ignored. By tasking their workforce to become more actively knowledgeable about civil society activity and its organisations, the Welsh Government and the Assembly would benefit by improving the quality of their policy development and service delivery. Both already have teams tasked with civil society knowledge and engagement. These could either be enlarged or refocused to include commitment to actively developing and maintaining their knowledge of civil society, and to act in an advisory capacity for the rest of their organisation. This would ensure a broader level of engagement, and reduce the distorting influence of the 'Cardiff bubble' of professionals.

Greater engagement by civil society:

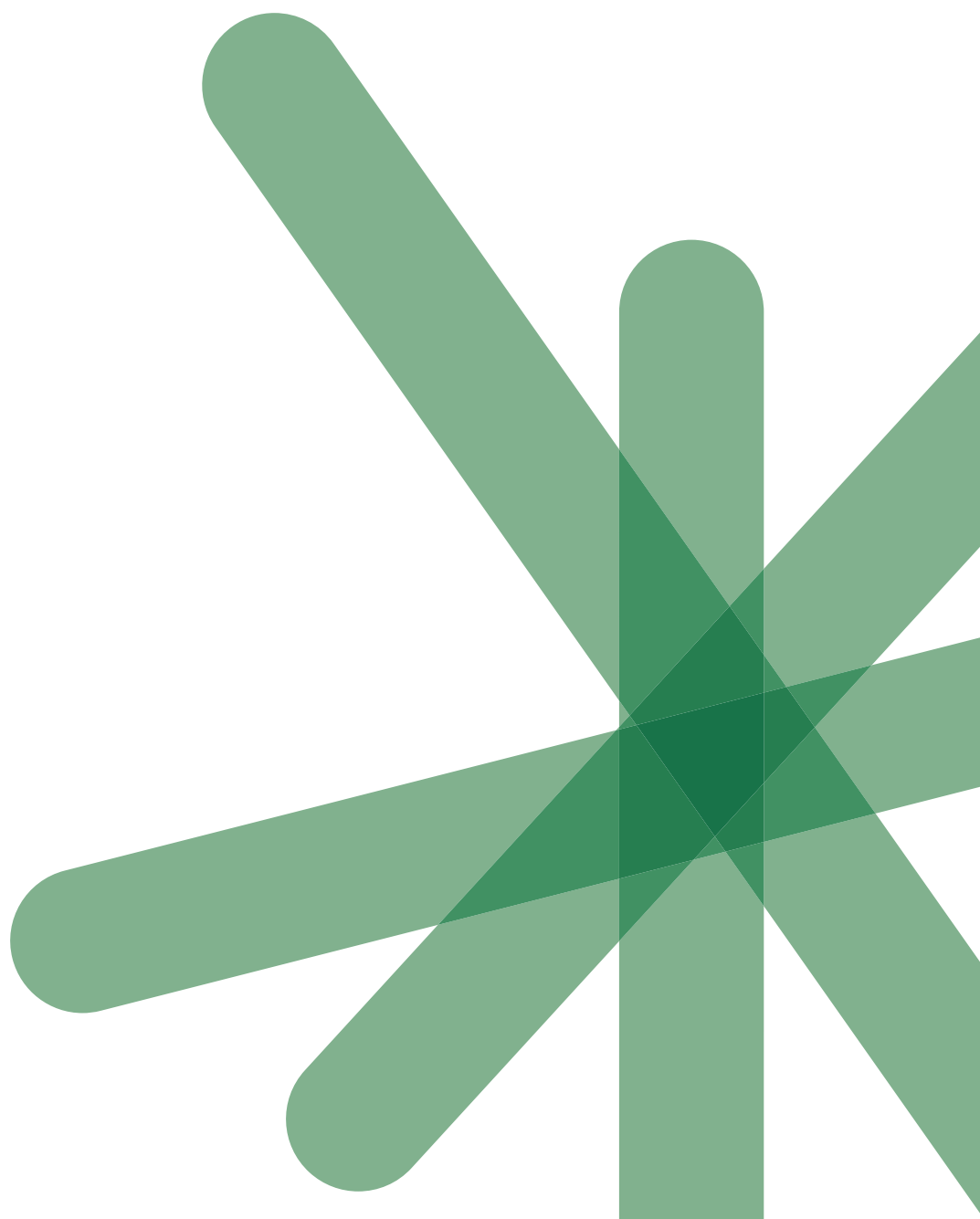
With the exception of a small number, most civil society organisations did not present themselves as taking public affairs and engagement with the Welsh level of governance as seriously as other areas of their activity. That is not to say that the employees of those organisations charged with overseeing public affairs and policy do not take their roles seriously. Often these people went above and beyond their remit to engage with the institutions. Rather, it appeared that organisational management is failing to assign adequate importance to understanding and engaging with Welsh devolution, and this was most common in UK-wide organisations. Whilst the extent to which civil society should engage is arguable, many organisations in Wales appeared under-staffed, under-skilled and under-supported by their UK parent organisations in public affairs and policy roles. Leaders and trustees of civil society organisations must make a conscious choice to do public affairs well, and to use their expertise to influence policy development and delivery at every level. This requires leaders of organisations to invest their own time in gaining an understanding of the Welsh constitutional landscape and the opportunities it offers. It also requires Welsh employees to be bold and vocal internally in order to raise awareness of the differences in Welsh policy.

Conclusion

Whilst there is much to be positive about civil society engagement in Wales, there is also much work to be done. A vibrant and engaged civil society is an important feature of a high quality and informed democracy. If Wales is to boast such a system, both civil society and the Welsh Government and National Assembly themselves must commit to improving the current state of affairs.

References

- Chaney, P., 'Made in Wales Policies: A critical overview of the post devolution policy process', The Future of Welsh Politics Conference, WMC Cardiff, September 2006, Institute of Welsh Politics, 2006.
- Davies, A., 'Effective Scrutiny, Scrutinising Scrutiny' – WCVA Voices For Change Conference, September 2010, Cardiff, 2010.
- Day, G., 'Chasing the Dragon? Devolution and the ambiguities of civil society' in Wales, *Critical Social Policy*, 26:642, Sage, 2006.
- Hodgson, L., 'Manufactured Civil Society: Counting the Cost', *Critical Social Policy*, 24:139, Sage, 2004.
- McAllister, L., 'The Nature of Scrutiny, Scrutinising Scrutiny' – WCVA Voices For Change Conference, September 2010, Cardiff, 2010.
- Meade, R., 'We hate it here, please let us stay! Irish social partnership and the community/voluntary sector's conflicted experiences of recognition', *Critical Social Policy*. August 2005 vol. 25 no. 3 349-373, 2005.
- Morgan, K. and Rees, G., 'Learning By Doing: Devolution And The Governance of Economic Development in Wales', in P. Chaney, T. Hall, and A. Pithouse, (Eds.), *New Governance: New Democracy?* University of Wales Press, 2001.
- Nicholl, A., 'Introduction', in Osmond, J. (Ed.) *Growing Wales' Civil Society*, Institute of Welsh Affairs, Cardiff, 2011.
- Rees, T. and Chaney, P., 'Multilevel Governance, Equality and Human Rights: Evaluating the First Decade of Devolution in Wales', *Social Policy and Society*, 10, pp 219-228, 2011.
- Williams, K. (2011) 'We need to become more participatory', in Osmond, J. (Ed), *Growing Wales' Civil Society*, Institute of Welsh Affairs, 2011.
- Scully R., Wyn Jones, R., Creunant G., Glendinning R., and Wright V., *The National Assembly for Wales: Public Attitudes*, National Assembly for Wales Publications, 2008.



Notes on the contributors

Michael Cole is Lecturer in Public Administration at the University of Liverpool. He has wide-ranging scholarly interests in the broad fields of public administration and British government.

Professor Stuart Cole has been a researcher and adviser in transport for nearly 40 years. He has advised governments (Welsh, UK and the European Commission), the House of Commons, the National Assembly and major international transport and investment companies. He has written and broadcast extensively on transport economics, policy and planning and was awarded the CBE for services to transport in 2012.

Cynog Dafis is the former Plaid Cymru AM and MP for Ceredigion.

Francesca Dickson is a PhD Candidate and President's Research Scholar with Cardiff University's Wales Governance Centre. Her research focuses on the external relations of sub-state governments and compares the strategies of Wales, Scotland and Bavaria.

Anwen Elias is Senior Lecturer in Politics at the Department of International Politics, Aberystwyth University. She is also Director of the Institute of Welsh Politics. Her research has focused on the dynamics of regionalisation in Western Europe and the party politics of devolution. She currently holds a Nuffield Foundation New Career Development Fellowship, and is working on a comparative project entitled *Regional Electoral Politics and the Transformation of States*.

James Gravelle is a lecturer in police sciences at the University of Glamorgan. His research on the police includes Tasking Demand Management Units, community intelligence and the use of volunteers. He is a member of the British Society of Criminology and the European Society of Criminology.

Laura McAllister is Professor of Governance at the University of Liverpool and a Hon Visiting Professor at Cardiff University. She has published widely in relation to Welsh and devolved governance and politics. Laura also has a wide range of public sector roles, most notably as Chair of Sport Wales.

Anna Nicholl is an independent policy and research consultant. She has over 13 years' experience of working in public policy and management in Wales. Anna has worked within civil society organisations as well as government, including as Special Adviser to the First Minister and Cabinet of the Welsh Government (2008-2011).

John Osmond is Director of the Institute of Welsh Affairs.

Rebecca Rumbul Manager of the Wales Governance Centre at Cardiff University, and a member of the Environment Wales Grants Advisory Panel. She began her career in grants-making and civil society development posts with the Arts Council of Wales and Big Lottery Fund before going on to manage at youth charity Fairbridge Cymru. Whilst completing her PhD, she spent time working with NGO's in Cameroon, and with the Information Commissioner's Office in Wales.

Colin Rogers is the first Professor of Police Science at the University of Glamorgan. He is a former police officer having served with the South Wales police for 30 years, retiring in 2003 with the rank of Inspector.

Diana Stirbu is Senior Lecturer in Public Administration at London Metropolitan University. She has published widely on Welsh governance and politics.

Stevie Upton is the Research Officer of the Institute of Welsh Affairs, and until December 2012 was a member of the Working Group on Capacity, Scrutiny, Accountability and Powers. She is currently on secondment to the Arts and Humanities Research Council, where she is supporting the development, coordination and delivery of the public policy elements of the Council's knowledge exchange, partnerships and impact activities.

Victoria Winckler is Director of the Bevan Foundation. She is a leading contributor to public policy in Wales, having worked in senior roles at the Welsh Local Government Association and Mid Glamorgan County Council before joining the Bevan Foundation in 2002. She has particular expertise on poverty, regeneration and equality issues, writing and researching these issues extensively as well as commenting in the media on them.

Research Papers

A Stable, Sustainable Settlement for Wales
